

2002

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Legislation Amendment Bill 2002

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Legislation Amendment Bill 2002

A Bill for

An Act to amend the *Legislation Act 2001*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Legislation Amendment Act 2002*.

3 **2 Commencement**

4 (1) This Act commences on the day after its notification day.

5 (2) However, a later date or time provided (after ‘commencement:’) at
6 the end of an amendment in schedule 2 has effect as the
7 commencement date or time of the amendment.

8 **Example**

9 An amendment followed by ‘(commencement: the commencement of section 3
10 of this Act or immediately after the commencement of the *XYZ Act 2001*,
11 whichever is the later)’ means the amendment commences on the commencement
12 of section 3 of this Act or the commencement of the *XYZ Act 2001*, whichever is
13 the later.

14 **3 Act amended**

15 This Act amends the *Legislation Act 2001*.

16 *Note 1* The *Legislation Act 2001* is amended in the body of this Act and in
17 sch 1.

18 *Note 2* Other Acts are amended in sch 2 (see s 29) and several Acts are
19 repealed by s 30.

20 **4 Objects**
21 **Section 5 (2) (b) and (c)**

22 *substitute*

23 (b) restating the law dealing with the ‘life cycle’ of legislation,
24 improving its structure and content, and simplifying its
25 provisions where practicable; and

26 (c) assisting users of legislation to find, read, understand and use
27 legislation by—

28 (i) facilitating the shortening and simplification of
29 legislation; and

- 1 (ii) promoting consistency in the form and language of
2 legislation; and
- 3 (iii) providing rules about the interpretation of legislation; and
- 4 (iv) facilitating the updating and republication of legislation
5 to ensure its ready availability.
- 6 (3) For this section, the ‘life cycle’ of legislation includes the making
7 (where relevant), notification, commencement, tabling and
8 disallowance (where relevant), operation, interpretation, proof,
9 republication, amendment and repeal of legislation and instruments
10 made under legislation.

11 **5 Sections 3, 4 and 5**

12 *renumber as sections 2, 2A and 3*

13 **6 Section 6**

14 *substitute*

15 **4 Application of Act**

- 16 (1) This Act applies to all Acts (including this Act) and statutory
17 instruments.
- 18 (2) In particular, Acts and statutory instruments are taken to be made on
19 the basis that they will operate in conjunction with this Act.

20 **Examples**

- 21 1 An Act imposes an obligation and provides that people who ‘fail’ to carry
22 out the obligation are liable to the penalty. The Act does not, however,
23 define ‘fail’ or indicate that the word is used in a special way. In
24 accordance with the dictionary, part 1 to this Act (see s 144), the word ‘fail’
25 includes ‘refuse’. In other words, a person who refuses to carry out the
26 obligation will be subject to the penalty in the same way as someone who
27 merely neglects the obligation. In this case, the presence in an Act of a
28 word that is defined in the *Legislation Act 2001* attracts the operation of the
29 definition in the dictionary.
- 30 2 The *XYZ Act 2001* contains the following provision:
31 The Minister may, in writing, determine fees for this Act.

1 Because the XYZ Act authorises a fee to be determined ‘for this Act’,
2 section 56 of this Act applies and therefore the provisions of part 6.3
3 (Making of certain statutory instruments about fees) apply to the
4 determination of fees under the provision. In this case, the operation of
5 provisions of the *Legislation Act 2001* is attracted because the *XYZ Act 2001*
6 contains a provision that triggers the application of the part.

7 (3) This section is a determinative provision.

8 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
9 displacement.

10 **5 Determinative and non-determinative provisions**

11 (1) This Act consists of determinative and non-determinative
12 provisions.

13 (2) A *determinative provision* is a provision of this Act that is declared
14 to be a determinative provision.

15 **Example**

16 Section 4 (3) provides that section 4 is a determinative provision.

17 (3) A *non-determinative provision* is any other provision of this Act.

18 **Example**

19 Section 3 does not contain a provision corresponding to section 4 (3). Therefore
20 section 3 is not a determinative provision.

21 **6 Legislation Act provisions must be applied**

22 (1) A provision of this Act must be applied to an Act or statutory
23 instrument, in accordance with the terms of the provision, except so
24 far as it is displaced.

25 (2) A determinative provision may be displaced expressly or by a
26 manifest contrary intention.

27 (3) A non-determinative provision may be displaced expressly or by a
28 contrary intention.

29 *Note* For the distinction between a ‘manifest contrary intention’ (see s (2))
30 and ‘contrary intention’ (see s (3)), see the examples in this section.

- 1 (4) The declaration of a provision as ‘determinative’ indicates that it is
2 the intention of the Legislative Assembly that, if the provision is to
3 be displaced at all in a particular case, a more deliberate
4 displacement is required than if the provision were a
5 non-determinative provision.
- 6 (5) This section applies despite any presumption or rule of
7 interpretation.
- 8 (6) A provision of this Act must not be taken to be displaced by a
9 provision of an Act or statutory instrument so far as the provisions
10 can operate concurrently.
- 11 (7) In particular and without limiting subsection (5), a provision of this
12 Act is not displaced by a provision of an Act or statutory instrument
13 because the provisions deal with the same or a similar subject
14 matter.
- 15 (8) This section is a determinative provision.

16 **Examples of different kinds of displacement**

17 1 *Determinative provision—express displacement*

18 The *Collections Regulation Act 1999* (hypothetical), section 83 contains the
19 following provision:

20 (2) The *Legislation Act 2001*, section 47 (3) does not apply to regulations
21 under this Act.

22 Section 83 (2) illustrates a provision expressly displacing the *Legislation Act*
23 *2001*, section 47 (3), a determinative provision.

24 2 *Determinative provision—manifest contrary intention*

25 The *Motor Repairers Act 2001* (hypothetical) does not contain a provision
26 like the *Collections Regulation Act 1999*, section 83, but section 79 contains
27 the following provision:

28 (3) The regulations may apply, adopt or incorporate an instrument or
29 provision of an instrument as in force from time to time.

30 Section 79 (3) illustrates a provision displacing the *Legislation Act 2001*,
31 section 47 (3), a determinative provision, by a manifest contrary intention
32 because section 79 (3) clearly contradicts section 47 (3).

33 3 *Non-determinative provision—contrary intention*

34 The master of a vessel is charged with contravening the *Liquor Act 2001*
35 (hypothetical), section 126 by selling liquor on or from ‘licensed premises’

1 otherwise than at a time authorised by the Act. It is claimed that the sale
2 took place on the vessel. The Act defines ‘licensed premises’ to mean that
3 part or those parts of a building or buildings and of the land adjoining it or
4 them as defined by the licensing court. It is argued that the complaint is
5 defective in that a vessel cannot be ‘licensed premises’. However,
6 section 126 is expressed to apply to ‘a licensee, servant, agent or master who
7 sells liquor on or from licensed premises’. In this case, the reference to
8 ‘master’ indicates a contrary intention indicating that the section is intended
9 to apply to liquor sold on or from vessels.

10 **Example of concurrent operation (no displacement)**

11 The *Small Clubs Act 2002* (hypothetical) contains the following provision
12 about how notice of the club’s annual general meeting may be served on
13 members of a registered small club:

14 **60 Serving notice of annual general meeting**

15 The executive committee of a registered small club may serve notice of the
16 annual general meeting of the club on members by pinning the notice to
17 a noticeboard in the club house.

18 The *Legislation Act 2001*, section 247, a non-determinative provision, allows
19 a document to be served on an individual under an Act in a number of ways
20 (by giving the document to the individual, by sending it by prepaid post etc),
21 but does not mention pinning the document to a noticeboard as a method of
22 giving the notice.

23 Section 247 is not displaced by the *Small Clubs Act 2002*, section 60,
24 because—

- 25 • section 60 does not expressly displace section 247 nor does it indicate a
26 contrary intention (see s 6 (1) and (3)) and, in particular, section 60 does
27 not indicate an intention that the method of service it authorises is to be
28 the only method of serving notice of annual general meetings on
29 members of small clubs; and
- 30 • the application of section 247 is not displaced by any presumption or
31 rule of interpretation (see s 6 (5)); and
- 32 • sections 60 and 247 can operate concurrently (see s 6 (6)) by allowing
33 complementary methods of service; and
- 34 • the fact that sections 60 and 247 deal with the same (or a similar)
35 subject matter does not of itself displace section 247 (see s 6 (7) and
36 also s 6 (5)).

37 It follows, therefore, that the executive committee is free to serve notice of
38 the annual general meeting under section 60 or section 247.

7 Contents of register
New section 19 (4A)

insert

(4A) The parliamentary counsel may enter additional material in the register in any way the parliamentary counsel considers is likely to be helpful to users of the register.

Examples

- 1 A uniform legislative scheme is entered into under heads of agreement signed on behalf of the Commonwealth, States and Territories. The Legislative Assembly later passes an Act to implement the scheme on behalf of the ACT and the Act is notified and entered in the register. The agreement is also entered in the register as a notifiable instrument with a notifiable instrument number even though the instrument is not taken to be a notifiable instrument under section 10 (Meaning of *notifiable instrument*). The page of the register for the Act contains the heading 'Registrable instruments' and the agreement is listed underneath. The page of the register for the agreement gives particulars for the agreement and mentions that it is not a notifiable instrument but is included in the register for information.
- 2 An instrument under the Self-Government Act notifying the appointment of Ministers is entered in the register as a notifiable instrument even though the instrument is not taken to be a notifiable instrument under section 10 (Meaning of *notifiable instrument*). The instrument is also numbered as a notifiable instrument. The page of the register for the notification mentions that it is made under the Self-Government Act and is not a notifiable instrument but is included in the register for information.
- 3 The Australian Road Rules that are applied in the ACT under the *Road Transport (Safety and Traffic Management) Regulations 2000* are entered in the register as a notifiable instrument even though the instrument is not taken to be a notifiable instrument under section 47 (Statutory instrument may make provision by applying a law or instrument). The page of the register for the regulations also contains the heading 'Registrable instruments' and the rules are listed underneath. The page of the register for the rules mentions that the rules are applied under the *Road Transport (Safety and Traffic Management) Regulations 2000* and that they are to be read with, and as if they formed part of those regulations. The note also explains that because they were applied before the commencement of the *Legislation Act 2001*, they are not a registrable instrument under that Act.

1 **8 Section 45**

2 *substitute*

3 **45 Power to make court rules (IA s 271)**

4 (1) The power of an entity to make rules for a court includes power to
5 make rules with respect to any matter necessary or convenient to be
6 prescribed for carrying out or giving effect to the court's jurisdiction
7 under any law that authorises or requires anything to be done in or
8 in relation to the court.

9 (2) This section is additional to section 44.

10 (3) This section is a determinative provision.

11 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
12 displacement.

13 (4) In this section:

14 *court* includes a tribunal.

15 *disallowable instrument*, for a Commonwealth Act, means a
16 disallowable instrument under the *Acts Interpretation Act 1901*
17 (Cwlth), section 46A.

18 *law* means—

19 (a) an Act, subordinate law or disallowable instrument; or

20 (b) a Commonwealth Act; and

21 (c) any regulations, rules, ordinance or disallowable instrument
22 under a Commonwealth Act;

23 and includes a provision of such a law.

1 **9 Power to make instrument includes power to amend or**
2 **repeal**
3 **Section 46 (3)**

4 *substitute*

5 (3) Despite subsection (1), a form that is a registrable instrument may
6 be repealed or repealed and remade (with or without changes), but
7 may not be amended.

8 (4) This section is a determinative provision.

9 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
10 displacement.

11 **10 Section 47**

12 *substitute*

13 **47 Statutory instrument may make provision by applying a**
14 **law or instrument (SLA s 8)**

15 (1) This section applies if an Act, subordinate law or disallowable
16 instrument (the *authorising law*) authorises or requires the making
17 of a statutory instrument (the *relevant instrument*) about a matter.

18 (2) The relevant instrument may make provision about the matter by
19 applying an ACT law—

20 (a) as in force at a particular time; or

21 (b) as in force from time to time.

22 (3) The relevant instrument may make provision about the matter by
23 applying a law of another jurisdiction, or an instrument, as in force
24 only at a particular time.

25 *Note* For information on the operation of s (3), see the examples to s (9).

26 (4) For subsection (3), if—

27 (a) the relevant instrument makes provision about a matter by
28 applying a law of another jurisdiction or an instrument; but

1 (b) subsection (3) is not displaced and the law or instrument is not
2 applied as in force from time to time;

3 the relevant instrument is taken to have applied the law or
4 instrument as in force when the instrument is made.

5 **Example**

6 The *Bushfire Compensation Determination 2002* (hypothetical) provides for the
7 making of claims against a compensation fund. Clause 43 provides that disputes
8 about claims under clause 42 must be decided in accordance with the *Commercial*
9 *Arbitration Act 1984* (NSW). The determination is made on 1 February 2002.
10 Neither the Act under which the determination is made nor the determination
11 indicates that the NSW Act is applied as in force at a particular date or from time
12 to time. Therefore, the NSW Act as in force on 1 February 2002 is applied by
13 the determination.

14 (5) If a law of another jurisdiction or an instrument is applied as in force
15 at a particular time, the text of the law or instrument (as in force at
16 that time) is taken to be a notifiable instrument made under the
17 relevant instrument by the entity authorised or required to make the
18 relevant instrument.

19 (6) If subsection (3) is displaced and a law of another jurisdiction or an
20 instrument is applied as in force from time to time, the text of each
21 of the following is taken to be a notifiable instrument made under
22 the relevant instrument by the entity authorised or required to make
23 the relevant instrument:

24 (a) the law or instrument as in force at the time the relevant
25 instrument is made;

26 (b) each subsequent amendment of the law or instrument;

27 (c) if the law or instrument is repealed and remade (with or
28 without changes)—the law or instrument as remade and each
29 subsequent amendment of the law or instrument;

30 (d) if a provision of the law or instrument is omitted and remade
31 (with or without changes) in another law or instrument—the
32 provision as remade and each subsequent amendment of the
33 provision.

- 1 (7) The authorising law or, if the relevant instrument is a subordinate
2 law or disallowable instrument, the relevant instrument, may
3 provide that—
- 4 (a) subsection (5) or (6) does not apply to the relevant instrument;
5 or
- 6 (b) subsection (5) or (6) applies with the modifications stated in
7 the authorising law or relevant instrument.
- 8 (8) If a provision of an Act, subordinate law or disallowable instrument
9 authorises or requires the application of a law or instrument, the
10 provision authorises the making of changes or modifications to the
11 law or instrument for that application.
- 12 (9) This section is a determinative provision.

13 **Examples for s (3) and s (9)**

14 Here are 2 examples about the operation of subsections (3) and (9): the first
15 illustrates how subsection (3) might be displaced and the second illustrates how a
16 law of another jurisdiction that applies as in force from time to time would
17 operate—

- 18 1 The effect of subsections (3) and (9), and the definition of *applying* in
19 subsection (10), is that if it is intended to apply, adopt or incorporate a law or
20 instrument as in force from time to time, the authorising law would need to
21 expressly displace subsection (3) (as illustrated in s 6, examples of different
22 kinds of displacement, example 1) *or* indicate a manifest contrary intention
23 (as illustrated in example 2 in those examples).
- 24 2 The *ABC Regulations 2001* (made under a provision like those illustrated in
25 section 6, examples of different kinds of displacement, examples 1 and 2)
26 provide that noise measurements are to be taken in accordance with the NSW
27 noise control manual as in force from time to time. The effect of the *ABC*
28 *Regulations 2001* is that whenever the NSW noise control manual is
29 amended in future, the noise measurements must be taken in accordance with
30 the manual as last amended.

31 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
32 displacement.

1 (10) In this section:

2 **ACT law** means an Act, subordinate law or disallowable instrument,
3 and includes a provision of an Act, subordinate law or disallowable
4 instrument.

5 **applying** includes adopting or incorporating.

6 *Note* See also s 157 (Defined terms and other parts of speech and
7 grammatical forms).

8 **disallowable instrument**, for a Commonwealth Act, means a
9 disallowable instrument under the *Acts Interpretation Act 1901*
10 (Cwlth), section 46A.

11 **instrument** includes a provision of an instrument, but does not
12 include an ACT law or a law of another jurisdiction.

13 **law of another jurisdiction** means—

14 (a) a Commonwealth Act, or any regulations, rules, ordinance or
15 disallowable instrument under a Commonwealth Act; or

16 (b) a State Act, or any regulations or rules under a State Act; or

17 (c) a New Zealand or Norfolk Island Act, or any regulations or
18 rules under a New Zealand or Norfolk Island Act; or

19 (d) a provision of a law mentioned in paragraphs (a) to (c).

20 **11 Notification of registrable instruments**
21 **New section 61 (8A), (8B) and (8C)**

22 *insert*

23 (8A) Despite subsection (2), the parliamentary counsel may notify the
24 making of a registrable instrument even though a requirement
25 prescribed under the regulations for subsection (2) (a **prescribed**
26 **requirement**) is not complied with.

27 (8B) Failure to comply with a prescribed requirement in relation to a
28 registrable instrument does not affect the validity of the instrument's
29 notification.

1 (8C) This section is a determinative provision.

2 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
3 displacement.

4 **12 General rules about commencement**
5 **Section 73 (1) (a) and (2) (a)**

6 *substitute*

7 (a) on the day after its notification day; or

8 **13 Section 73 (3) (b)**

9 *substitute*

10 (b) the instrument commences on the day after its notification day.

11 **14 Section 74**

12 *substitute*

13 **74 Time of commencement (IA s 10A)**

14 (1) If an Act commences on a day, it commences at the beginning of the
15 day unless a different time of commencement is provided by the
16 Act, another Act, or a commencement notice providing for the
17 commencement of the Act.

18 (2) If a statutory instrument commences on a day, it commences at the
19 beginning of the day unless a different time of commencement is
20 provided by the instrument, an Act, or a commencement notice
21 providing for the commencement of the instrument.

22 **15 Commencement of naming and commencement**
23 **provisions on notification day**
24 **Section 75 (2)**

25 *substitute*

26 (2) However, if any of the provisions of a law commence
27 retrospectively, the provisions providing for its name and

1 commencement automatically commence when the earlier or earliest
2 of those provisions commence.

3 **Example**

4 The *XYZ Act 2001* was notified on 1 September 2001. It contains the following
5 provision:

6 **2 Commencement**

7 (1) This Act, other than sections 9 and 10, commences on a day fixed by the
8 Minister.

9 (2) Section 9 is taken to have commenced on 1 July 2001.

10 (3) Section 10 is taken to have commenced on 1 August 2001.

11 The provisions of the *XYZ Act 2001* providing for its name and commencement
12 are taken to have commenced on 1 July 2001.

13 (3) This section is a determinative provision.

14 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
15 displacement.

16 **16 Commencement by commencement notice**
17 **Section 77 (2)**

18 *substitute*

19 (2) A commencement notice for a law or notifiable instrument is valid
20 even if the day or time fixed or otherwise determined by the notice
21 happens before the notice's notification day.

22 (3) If the day or time fixed or otherwise determined by a
23 commencement notice for a law or notifiable instrument happens on
24 or before the notice's notification day, the law or instrument
25 commences on the day after the notice's notification day.

26 (4) However, subsection (3) does not apply to the commencement
27 notice if—

28 (a) the notice clearly indicates that the law or statutory instrument
29 is to commence at an earlier date or time; and

30 (b) the notice provides for the earlier date or time under authority
31 given by an Act.

Example of par (a)

The commencement notice provides that the law or statutory instrument is ‘taken to have commenced’ at the earlier date or time.

(5) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

17 Section 85

substitute

85 When repeal takes effect (IA s 38)

(1) This section applies if a law is repealed on a day.

(2) If the law is remade on that day (with or without changes), the repeal takes effect when the remade law commences.

Note Under s 74, if a law commences on a day, it commences at the beginning of the day unless otherwise provided.

(3) If the law is not remade on that day (with or without changes), the law continues in force until the end of the day and the repeal takes effect at midnight on the day.

18 New section 121

insert

121 Binding effect of Acts (IA s 7)

(1) An Act binds everyone, including all governments.

Note See the Self-Government Act, s 27 which provides that, except as provided by the regulations under that Act, an ACT enactment does not bind the Crown in right of the Commonwealth. See also s 120.

(2) However, an Act does not bind the Territory to the extent that it requires or otherwise provides for the payment of money that, on payment, would form part of the public money of the Territory.

1 (3) Also, subsection (1) does not make a government liable to be
2 prosecuted for an offence.

3 (4) To the extent that an Act does not bind a government, the same
4 degree of immunity extends to a government entity in relation to an
5 authorised act or omission of the entity.

6 (5) This section is a determinative provision.

7 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
8 displacement.

9 (6) In this section:

10 ***authorised***—an act or omission of a government entity is
11 ***authorised*** if—

12 (a) for an instrumentality—the act or omission relates to a matter
13 within the scope of the instrumentality’s functions; and

14 (b) for an officer or employee of the government—the act or
15 omission relates to a matter within the scope of the duties of
16 the officer or employee; and

17 (c) for a contractor who exercises a function on behalf of the
18 government—the act or omission relates to a matter within the
19 scope of the contract; and

20 (d) for anyone else who exercises a function on behalf of the
21 government—the act or omission relates to a matter within the
22 scope of the person’s engagement.

23 ***government entity*** includes—

24 (a) an instrumentality, officer or employee of the government; and

25 (b) a contractor or anyone else who exercises a function on behalf
26 of the government.

27 ***government*** includes the Territory, the Commonwealth, a State,
28 another Territory or New Zealand.

19 New chapter 14*insert***Chapter 14 Interpretation of Acts and
statutory instruments****Part 14.1 Purpose and scope****137 Meaning of *Act* in ch 14**

In this chapter:

Act includes a statutory instrument.

Note Section 7 (3) provides that a reference to an Act includes a reference to a provision of an Act. Section 13 (3) provides that a reference to a statutory instrument includes a reference to a provision of a statutory instrument.

138 Purpose and scope of ch 14

- (1) The purpose of this chapter is to provide guidance about the interpretation of Acts.
- (2) This chapter is not intended to be a comprehensive statement of the law of interpretation applying to Acts.
- (3) In particular, this chapter assumes that rules and presumptions of common law operate in conjunction with this chapter to the extent that they are not inconsistent with this chapter, or another provision of this Act.
- (4) Subsection (3) also applies to rules and presumptions of common law that come into existence after the commencement of this chapter.

1 **Part 14.2** **Key principles of**
2 **interpretation**

3 **139** **Meaning of *working out the meaning of an Act***

4 In this part:

5 *working out the meaning of an Act* means—

- 6 (a) resolving an ambiguous or obscure provision of the Act; or
7 (b) confirming or displacing the apparent meaning of the Act; or
8 (c) finding the meaning of the Act when its apparent meaning
9 leads to a result that is manifestly absurd or is unreasonable; or
10 (d) finding the meaning of the Act in any other case.

11 **140** **Interpretation best achieving Act's purpose (IA s 11A)**

12 (1) In working out the meaning of an Act, the interpretation that would
13 best achieve the purpose of the Act is to be preferred to any other
14 interpretation.

15 (2) This section applies—

- 16 (a) whether or not the Act's purpose is expressly stated in the Act;
17 and
18 (b) despite any presumption or rule of interpretation.

19 **141** **Legislative context**

20 In working out the meaning of an Act, the provisions of the Act
21 must be read in the context of the Act as a whole.

22 **Examples**

23 1 The long title of an Act provides that it is an Act to give certain benefits to
24 the holders of pensioner cards. Section 4 of the Act provides, 'This Act
25 applies to a holder of a pensioner card'. Section 22 of the Act provides that
26 the commissioner may grant 'a person' an exemption from payment of rates.
27 The Act does not contain a definition of 'person'. Section 22 must be read

1 in the context of the Act as a whole so that the commissioner may only grant
2 exemptions to people who are holders of pensioner cards.

- 3 2 The *Drug Testing Regulations 2001* (made under the *Drug Testing Act 2000*
4 (hypothetical)), regulation 6 contains the following heading:

5 **6 Corresponding law—Act, s 100, def of *corresponding law***

6 The heading indicates that the regulation has been made for the
7 definition of *corresponding law* in the *Drug Testing Act 2000*,
8 section 100.

- 9 3 Regulation 12 (1) of a subordinate law refers to ‘an order under the *Crimes*
10 *Act 1900*, section 402’. No other kind of order is mentioned in the
11 regulation and the word ‘order’ is not otherwise defined in the subordinate
12 law. Subregulations (2), (4), (7) and (9) of the same regulation, which
13 merely refer to ‘the order’, are to be understood as referring to the order
14 mentioned in subregulation (1).

15 *Note* See s 126 and s 127 for material that is, or is not, part of an Act or
16 statutory instrument.

17 **142 Non-legislative context (IA s 11B)**

- 18 (1) In working out the meaning of an Act, any relevant material not
19 forming part of the Act may be considered.

20 *Note 1* Examples 1 to 7 in this section are relevant to s (1).

21 *Note 2* See s 126 and s 127 for material that is, or is not, part of an Act or
22 statutory instrument.

- 23 (2) If an Act provides that stated material may be considered in working
24 out the meaning of the Act, this does not by implication prevent
25 other relevant material of the same or a similar kind being
26 considered in working out the meaning of the Act or another Act.

27 *Note* Example 8 is relevant to s (2).

28 **Examples**

- 29 1 The *Registration of Deeds Act 1989* (hypothetical), section 8 is based on a
30 provision of a corresponding law of another jurisdiction but has been revised
31 to incorporate the effect of court decisions on the other provision. The
32 explanatory memorandum indicates that section 8 is intended to operate in
33 the same way as the other provision and to make explicit what is implicit in
34 the other provision. The explanatory memorandum may be considered to
35 confirm the apparent meaning of section 8.

- 1 2 The *Legislation Act 2001*, section 126 (1) does not apply to the *Hypothetical*
2 *Act 1958* and therefore the headings to its sections do not form part of the
3 Act. However, the headings may be considered in working out the meaning
4 of the Act.
- 5 3 The *Roads Act 1999* (hypothetical), section 11 uses the word ‘road’ without
6 defining it. During her presentation speech the Minister referred to
7 misunderstandings on the part of some honourable members about the
8 provisions of the Bill and implied that ‘road’ was not intended to apply to
9 stock routes. The views expressed by the Minister may be considered in
10 working out the meaning of the word in section 11.
- 11 4 During debate on a Bill an amendment of clause 6 of the Bill was moved but
12 opposed by the government on the ground that it was unnecessary. The
13 amendment was defeated. In interpreting section 6 of the Act resulting from
14 the Bill, the views expressed by the Minister in opposing the amendment
15 may be taken into account in working out the intended operation of the Act.
- 16 5 The *Health Act 1998* (hypothetical) was reviewed by a committee of inquiry
17 and most of its recommendations were implemented by amendments in an
18 Act passed in 2000. The amendments do not deal with a proposal that the
19 committee rejected at the inquiry and in his presentation speech the Minister
20 accepted the committee’s response to the proposal. A court interpreting the
21 *Health Act 1998* may draw the inference that the Legislative Assembly
22 intended that the Act should operate consistently with the view expressed by
23 the committee.
- 24 6 The *Financial Advisers Act 2001* (hypothetical), section 14 provides that a
25 member of a profession may advertise using a notice of a particular kind and
26 size. The presentation speech for the Financial Advisers Bill 2001 indicated
27 that the professions intended to be covered were restricted to professions
28 subject to a particular statutory registration scheme. A court may have
29 regard to the presentation speech of the Minister even if it is of the view that
30 there is no ambiguity or obscurity in the word ‘profession’, and that the
31 result flowing from the apparent meaning is not manifestly absurd or
32 unreasonable. Also, after considering the presentation speech, the court
33 may give the provision a meaning that it can bear even though this may
34 differ from the meaning of the provision apparent on its face.
- 35 7 The *Serious Offences (Forfeiture) Act 2002* (hypothetical) provides for the
36 automatic forfeiture of a person’s property to the Territory if the person is
37 convicted of a ‘serious offence’ (as defined). Sections 20 and 50 of the Act
38 each provide for an application to be made to a court for various kinds of
39 orders to provide relief against forfeiture. Following her conviction of a
40 serious offence, X is unsuccessful in an application under section 20 of the
41 Act. X then seeks relief under section 50. The Act does not expressly
42 prevent applications under both sections but its language gives some support

1 for the view that the remedies are intended to be alternatives. Australia is a
 2 party to the *Universal Declaration of Human Rights* (though the declaration
 3 is not mentioned in the Act). Because of the drastic consequences of the
 4 application of the Act and its impact on property rights, it may be appropriate
 5 for the court hearing the section 50 application to have regard to the property
 6 rights recognised by the declaration and conclude that the Act allows
 7 successive rights of relief against forfeiture.

8 8 The *Computer Crime Act 2000* (hypothetical) contains the following
 9 provision:

10 **4 Report may be used as an aid to interpretation**

11 The *Community Law Reform Report on Computer Crime* (CLRC No X)
 12 may be considered in working out the meaning of this Act.

13 This does not, however, limit access to other extrinsic material for working
 14 out the meaning of the *Computer Crime Act 2000* (see s (2)).

15 **20 Part 15.1, new sections 151 and 152**

16 *insert*

17 **151 Reckoning of time (IA s 36)**

- 18 (1) This section applies if a period is provided or allowed for a purpose
 19 by an Act or statutory instrument.
- 20 (2) In working out whether the purpose has been fulfilled within the
 21 period provided or allowed, the period is taken to begin at the start
 22 point.
- 23 (3) For this section—
- 24 (a) if a period is to begin from a particular day—the *start point* is
 25 the beginning of the next day; and
- 26 (b) if the period is to begin when an act or event happens—the
 27 *start point* is the beginning of the day after the act or event
 28 happens.

29 **Examples**

- 30 1 The *ABC Act 1995* provides that a person who ceases to be an inspector must
 31 return his or her identity card to the authority within 21 days after ceasing to
 32 be an inspector. X is notified that his appointment as inspector ends on
 33 Friday 1 November. The period of 21 days starts on Saturday 2 November.

1 2 The *XYZ Act 2001* requires an application for review to be lodged not later
2 28 days after service on the licensee of the decision objected to. The period
3 of 28 days begins with the day following the day of service.

4 (4) If the last day of the period is not a working day, the last day of the
5 period is the first working day after the end of the period.

6 **Example**

7 The *Hypothetical Act 2000* requires the board to give a copy of its business plan
8 to the Minister not later than 14 days after its preparation. The 14th day is Good
9 Friday (a public holiday) and the following Monday is also a public holiday.
10 Under section 151 (4) of this Act, the last day to give a copy of the business plan
11 is the Tuesday following Easter (the first working day after the 14th day).

12 **152 Continuing effect of obligations (IA s 33B (1))**

13 If, under a provision of an Act or statutory instrument, an act is
14 required to be done within a particular period or before a particular
15 time, the obligation to do the act continues each day after the end of
16 the period or time until the act is done.

17 **21 New part 15.4**

18 *insert*

19 **Part 15.4 Preservation of certain**
20 **common law privileges**

21 **170 Privileges against selfincrimination and exposure to civil**
22 **penalty**

23 (1) An Act or statutory instrument must be interpreted to preserve the
24 common law privileges against selfincrimination and exposure to
25 the imposition of a civil penalty.

26 (2) However, this section does not affect the operation of the *Evidence*
27 *Act 1995* (Cwlth).

28 *Note* The *Evidence Act 1995* (Cwlth), s 128 contains provisions that apply if
29 a witness raises these privileges in a proceeding. The section applies to
30 proceedings in ACT courts (see *Evidence Act 1995* (Cwlth), s 4).

1 However, the privileges have been abolished for bodies corporate (see
2 *Evidence Act 1995* (Cwlth), s 187).

3 (3) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **171 Client legal privilege**

7 (1) An Act or statutory instrument must be interpreted to preserve the
8 common law privilege in relation to client legal privilege (also
9 known as legal professional privilege).

10 (2) However, this section does not affect the operation of the *Evidence*
11 *Act 1995* (Cwlth).

12 *Note* The *Evidence Act 1995* (Cwlth), pt 3.10, div 1 contains provisions about
13 client legal privilege. The provisions apply to proceedings in ACT
14 courts (see *Evidence Act 1995* (Cwlth), s 4).

15 (3) This section is a determinative provision.

16 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
17 displacement.

18 **22 New chapter 18**

19 *Note* Current *Legislation Act 2001*, ch 18 is renumbered as ch 19 by this Act.

20 *insert*

21 **Chapter 18 Offences**

22 *Note* See also s 133 to s 135 (which relate to penalty units and penalty
23 provisions) and s 161 (Corporations liable to offences).

24 **188 Meaning of *Territory law* in ch 18**

25 In this chapter:

26 *Territory law* means an Act or subordinate law, and includes a
27 provision of a Territory law.

1 **189 Reference to offence includes reference to related**
2 **ancillary offences**

3 A reference to an offence against a Territory law includes a
4 reference to an offence against the *Crimes Act 1900*, part 9 that
5 relates to the Territory law.

6 **Example**

7 X is the holder of a licence under the *Plant Development Act 2001* (hypothetical).
8 Section 23 of the Act provides for the cancellation of a licence if a licence holder
9 commits an offence against the Act. While his business premises are being
10 inspected, X incites an employee to obstruct the inspector. As a result, the
11 employee obstructs the inspector (which is an offence against the Act). X is later
12 convicted of incitement against the *Crimes Act 1900*, section 183 (which is an
13 offence in the Crimes Act, part 9). Because of the Legislation Act, section 189,
14 X is taken to have committed an offence against the Plant Development Act and is
15 therefore liable to have his licence cancelled.

16 *Note* The result would be the same if X had been convicted of any of the
17 following offences in the Crimes Act, part 9 that related to the offence
18 of obstruction in the Plant Development Act:

- 19
- accessory after the fact (s 181)
 - conspiracy (s 184).
- 20

21 Apart from the Legislation Act, section 189, the other offences in the
22 Crimes Act, part 9 could also apply to the offence in the Plant
23 Development Act. These are:

- 24
- aiding and abetting (s 180)
 - attempts (s 182).
- 25

26 **190 Indictable and summary offences (IA s 33D and 33E)**

27 (1) An offence is an *indictable offence* if—

- 28 (a) it is punishable by imprisonment for longer than 1 year; or
29 (b) it is declared by a law to be an indictable offence.

30 (2) Any other offence is a *summary offence* and is punishable on
31 summary conviction.

1 **191 Offences against 2 or more laws (IA s 33F)**

2 (1) If an act or omission by a person is an offence against 2 or more
3 Territory laws, the person may be prosecuted and convicted for any
4 of the offences, but is not liable to be punished more than once for
5 the act or omission.

6 (2) If—

7 (a) an act or omission by a person is an offence against both a
8 Territory law and a law of another jurisdiction; and

9 (b) the person has been punished for the offence against the law of
10 the other jurisdiction;

11 the person is not liable to be punished for the offence against the
12 Territory law.

13 (3) In this section:

14 *law of another jurisdiction* means a law of the Commonwealth, a
15 State, another Territory or New Zealand.

16 **192 When must prosecutions begin? (IA s 33H)**

17 (1) A prosecution for any of the following offences against a Territory
18 law may be begun at any time:

19 (a) an offence by an individual punishable by imprisonment, on a
20 first conviction, for longer than 6 months;

21 (b) an offence by a corporation punishable, on a first conviction,
22 by a fine of more than 150 penalty units;

23 (c) an aiding and abetting offence by an individual in relation to an
24 offence by a corporation punishable, on a first conviction, by a
25 fine of more than 150 penalty units;

26 (d) an offence against the *Crimes Act 1900*, section 90 (Minor
27 theft).

- 1 (2) A prosecution for any other offence against a Territory law may be
2 begun only within—
- 3 (a) 1 year after the day of commission of the offence; or
4 (b) if a Territory law provides for another period—that period.
- 5 (3) However, if a coroner’s inquest or inquiry, or an inquiry under the
6 *Inquiries Act 1991* or the *Royal Commissions Act 1991*, is held into
7 a matter that relates to an offence mentioned in subsection (2), a
8 prosecution for the offence may be begun within 1 year after the day
9 when—
- 10 (a) the coroner’s report is made; or
11 (b) the report of the board of inquiry or royal commission is given
12 to the Chief Minister.
- 13 (4) In this section:
- 14 ***aiding and abetting offence*** means—
- 15 (a) an offence arising under the *Crimes Act 1900*, section 180
16 (Aiding and abetting); or
17 (b) another offence against a Territory law dealing with aiding and
18 abetting.

19 **193 Continuing offences (IA s 33B (2))**

- 20 (1) This section applies to a requirement to do an act if—
- 21 (a) the act is required to be done under a law within a particular
22 period or before a particular time; and
23 (b) failure to comply with the requirement is an offence against the
24 law.
- 25 (2) A person who fails to comply with the requirement commits an
26 offence for each day until the act is done.

- 1 (3) A day mentioned in subsection (2) includes any day of conviction
2 for an offence and any later day.

3 *Note* See also s 152 (Continuing effect of obligations).

4 **23 Chapters 18, 19 and 20**

5 *renumber as follows:*

- 6 • chapters 18, 19 and 20 as chapters 19, 20 and 21
- 7 • *parts 18.1 to 18.6 as parts 19.1 to 19.6*
- 8 • *divisions 18.3.1 and 18.3.2 as divisions 19.3.1 and 19.3.2*

9 **24 Section 206**

10 *substitute*

11 **206 Appointments must be in writing etc (IA s 28 (7))**

- 12 (1) An appointment must be made, or evidenced, by writing (the
13 *instrument of appointment*) signed by the appointer.
- 14 (2) If a law provides for a maximum or minimum period of
15 appointment, the instrument of appointment must state the period
16 for which the appointment is made.

17 **Examples of stated appointment periods**

- 18 1 2 years
19 2 until age 65

20 **25 Section 216**

21 *substitute*

22 **216 Acting appointments must be in writing etc (IA s 28 (7))**

- 23 (1) An acting appointment must be made, or evidenced, by writing (the
24 *instrument of appointment*) signed by the appointer.
- 25 (2) If a law provides for a maximum or minimum period of
26 appointment, the instrument of appointment must state the period
27 for which the acting appointment is made.

1 **Examples of stated appointment periods**

2 1 1 year

3 2 until 31 December 2002 (a period of 9 months)

4 *Note* See also s 219 (Appointer may decide terms of acting appointment etc)
5 and s 221 (How long does an acting appointment operate?)

6 **26 New division 19.3.3**

7 *insert*

8 **Division 19.3.3 Appointments—Assembly**
9 **consultation**

10 **226 Meaning of *statutory position* in div 19.3.3(SAA s 3)**

11 In this division:

12 *statutory position* means a position (including as a member of a
13 Territory authority) established under an Act.

14 *Note* *Position* includes office (see dict, pt 1, def of *position*).

15 **227 Application of div 19.3.3 (SAA s 4 (1), s 6)**

16 (1) This division applies if a Minister has the power under an Act to
17 appoint a person to a statutory position.

18 (2) However, this division does not apply to an appointment of—

19 (a) a public servant to a statutory position (whether or not the Act
20 under which the appointment is made requires that the
21 appointee be a public servant); or

22 (b) a person to act in a statutory position for not longer than
23 6 months, unless the appointment is of the person to act in the
24 position for a 2nd or subsequent consecutive period; or

25 (c) a person to a statutory position if the only function of the
26 position is to advise the Minister.

1 **228 Consultation with appropriate Assembly committee**
2 (SAA s 4 (1))

3 (1) Before making an appointment to a statutory position, a Minister
4 must consult—

5 (a) a standing committee of the Legislative Assembly nominated
6 by the Speaker for the purpose; or

7 (b) if no nomination under paragraph (a) is in force—the standing
8 committee of the Legislative Assembly responsible for the
9 scrutiny of public accounts.

10 (2) The committee may make a recommendation to the Minister about
11 the proposed appointment.

12 (3) The Minister must not make the appointment until the Minister has
13 received a recommendation or 30 days have passed since the
14 consultation took place, whichever happens first.

15 (4) In making the appointment, the Minister must have regard to any
16 recommendation received.

17 **229 Disallowable instrument (SAA s 5)**

18 The instrument making, or evidencing, an appointment to which this
19 division applies is a disallowable instrument.

20 *Note* A disallowable instrument must be notified and presented to the
21 Legislative Assembly (see ch 7 (Presentation, amendment and
22 disallowance of subordinate laws and disallowable instruments)).

23 **27 Part 18.6, heading**

24 *substitute*

25 **Part 19.7 Other matters**

1 **28 New part 19.6**

2 *insert*

3 **Part 19.6 Functions of Executive and**
4 **Ministers**

5 **253 Exercise of functions of Executive (AA s 3A)**

6 (1) A function given to the Executive under an Act may be exercised by
7 any 2 Ministers acting in concert.

8 **Example**

9 If an Act requires or authorises the Executive to make an instrument, it only has to
10 be made by 2 Ministers signing the instrument.

11 (2) The exercise of a function under subsection (1) is taken to be the
12 exercise of the function by the Executive.

13 **254 Administration of matters not allocated (AA s 4)**

14 If a matter relating to the Executive's functions is not allocated
15 under the Self-Government Act, section 43 (1), the Chief Minister
16 administers the matter.

17 **254A Delegation by Minister (AA s 5)**

18 A Minister may delegate the Minister's functions under an Act or
19 statutory instrument to anyone else.

20 *Note* For the making of delegations and the exercise of delegated functions,
21 see *Legislation Act 2001*, pt 19.4.

22 **29 Consequential amendments—sch 2**

23 Schedule 2 amends the Acts mentioned in it.

1 **30 Repeal of Acts**

2 (1) The following Acts are repealed:

- 3 • *Administration Act 1989* No 41
- 4 • *Interpretation Act 1967* No 48
- 5 • *Statutory Appointments Act 1994* No 32

6 (2) Each Act mentioned in subsection (1) is declared to be a law to
7 which the *Legislation Act 2001*, section 88 (Repeal does not end
8 transitional or validating effect etc) applies.

1 **Schedule 1** **Minor and consequential**
2 **amendments of Legislation**
3 **Act 2001**

4 (see s 3)

5 **[1.1] Section 4 (2), note, dot points**

6 *substitute*

- 7 • AA: *Administration Act 1989*
- 8 • EA: *Evidence Act 1971*
- 9 • IA: *Interpretation Act 1967*
- 10 • LRA: *Legislation (Republication) Act 1996*
- 11 • SAA: *Statutory Appointments Act 1994*
- 12 • SLA: *Subordinate Laws Act 1984.*

13 **[1.2] Section 19 (3)**

14 *omit*

15 However, the

16 *substitute*

17 The

18 **[1.3] Section 19**

19 *renumber subsections when Act next republished under Legislation*
20 *Act 2001*

21 **[1.4] Section 24 (3) (b) and (c)**

22 *omit*

23 to be authorised by the parliamentary counsel

24 *substitute*

25 to be authorised

1 **[1.5] New section 28 (9)**

2 *insert*

3 (9) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.6] Section 41**

7 *substitute*

8 **41 Making of statutory instruments by Executive**

9 A statutory instrument made by the Executive is taken to be made
10 when it is signed by the second Minister who is a member of the
11 Executive.

12 *Note* See also s 253, which permits the 2 Ministers to make the statutory
13 instrument.

14 **[1.7] New section 42 (3)**

15 *insert*

16 (3) This section is a determinative provision.

17 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
18 displacement.

19 **[1.8] New section 43 (5)**

20 *insert*

21 (5) This section is a determinative provision.

22 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
23 displacement.

24 **[1.9] Section 44 (3)**

25 *omit*

26 , except so far as the authorising law otherwise expressly provides

1 **[1.10] New section 44 (4)**

2 *insert*

3 (4) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.11] New section 48 (4)**

7 *insert*

8 (4) This section is a determinative provision.

9 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
10 displacement.

11 **[1.12] New section 49 (4)**

12 *insert*

13 (4) This section is a determinative provision.

14 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
15 displacement.

16 **[1.13] Section 50**

17 *omit*

18 If

19 *substitute*

20 (1) If

21 **[1.14] New section 50 (2)**

22 *insert*

23 (2) This section is a determinative provision.

24 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
25 displacement.

1 **[1.15] New section 52 (2A)**

2 *insert*

3 (2A) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.16] Section 52**

7 *renumber subsections when Act next republished under Legislation*
8 *Act 2001*

9 **[1.17] Section 53**

10 *omit*

11 If

12 *substitute*

13 (1) If

14 **[1.18] New section 53 (2)**

15 *insert*

16 (2) This section is a determinative provision.

17 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
18 displacement.

19 **[1.19] New section 54 (3)**

20 *insert*

21 (3) This section is a determinative provision.

22 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
23 displacement.

24 **[1.20] Section 56 (4) (c)**

25 *omit*

26 a combination

1 *substitute*
2 by a combination

3 **[1.21] New section 56 (6)**

4 *insert*
5 (6) This section is a determinative provision.

6 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
7 displacement.

8 **[1.22] New section 57 (5)**

9 *insert*
10 (5) This section is a determinative provision.

11 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
12 displacement.

13 **[1.23] New section 58 (7A)**

14 *insert*
15 (7A) This section is a determinative provision.

16 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
17 displacement.

18 **[1.24] Section 58**

19 *renumber subsections when Act next republished under Legislation*
20 *Act 2001*

21 **[1.25] Section 61 (2)**

22 *after*
23 regulations
24 *insert*
25 (whether in relation to the form of the instrument, in relation to the
26 making of the request or otherwise)

1 **[1.26] Section 61**

2 *renumber subsections when Act next republished under Legislation*
3 *Act 2001*

4 **[1.27] Section 62**

5 *omit*

6 A registrable

7 *substitute*

8 (1) A registrable

9 **[1.28] New section 62 (2)**

10 *insert*

11 (2) This section is a determinative provision.

12 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
13 displacement.

14 **[1.29] Section 64 heading**

15 *substitute*

16 **64 Presentation of subordinate laws and disallowable**
17 **instruments**

18 **[1.30] New section 64 (3)**

19 *insert*

20 (3) This section is a determinative provision.

21 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
22 displacement.

1 **[1.31] New section 65 (5)**

2 *insert*

3 (5) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.32] New section 65A (7)**

7 *insert*

8 (7) This section is a determinative provision.

9 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
10 displacement.

11 **[1.33] New section 66 (3)**

12 *insert*

13 (3) This section is a determinative provision.

14 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
15 displacement.

16 **[1.34] New section 67 (4)**

17 *insert*

18 (4) This section is a determinative provision.

19 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
20 displacement.

21 **[1.35] New section 68 (8)**

22 *insert*

23 (8) This section is a determinative provision.

24 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
25 displacement.

1 **[1.36] New section 69 (7)**

2 *insert*

3 (7) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.37] New section 70 (4)**

7 *insert*

8 (4) This section is a determinative provision.

9 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
10 displacement.

11 **[1.38] New section 71 (3)**

12 *insert*

13 (3) This section is a determinative provision.

14 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
15 displacement.

16 **[1.39] Section 73 (5) (d)**

17 *insert*

18 (d) section 81 (Exercise of powers between notification and
19 commencement).

20 **[1.40] New section 73 (6)**

21 *insert*

22 (6) This section is a determinative provision.

23 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
24 displacement.

1 **[1.41] New section 76 (2A)**

2 *insert*

3 (2A) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.42] Section 76**

7 *renumber subsections when Act next republished under Legislation*
8 *Act 2001*

9 **[1.43] Section 77 (1)**

10 *after*

11 law

12 *insert*

13 or notifiable instrument

14 **[1.44] Section 78**

15 *substitute*

16 **78 Separate commencement of amendments**

17 (1) Amendments made by a provision of a law may be given separate
18 commencements, whether or not the provision is self-contained.

19 **Examples**

20 1 A provision of an amending law inserts 2 sections. The sections may be
21 given separate commencements.

22 2 A provision of an amending law inserts a section that is divided into
23 paragraphs. The paragraphs may be given separate commencements.

24 (2) This section is a determinative provision.

25 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
26 displacement.

1 **[1.45] Section 79 (2)**

2 *substitute*

3 (2) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.46] Section 81 (1) (a) and (b)**

7 *substitute*

8 (a) the power is given by a law (the *authorising law*) that has been
9 notified but has not commenced;

10 (b) the power is given by a law (the *authorising law*) as amended
11 by another law (the *amending law*) and the laws have been
12 notified, but all or any of them have not commenced.

13 **[1.47] Section 81 (4) (a)**

14 *substitute*

15 (a) for an appointment or statutory instrument that is a registrable
16 instrument—the day after its notification day; or

17 **[1.48] New section 81 (6)**

18 *insert*

19 (6) This section is a determinative provision.

20 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
21 displacement.

22 **[1.49] Section 83**

23 *omit*

24 If

25 *substitute*

26 (1) If

1 **[1.50] New section 83 (2)**

2 *insert*

3 (2) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.51] New section 84 (4A)**

7 *insert*

8 (4A) This section is a determinative provision.

9 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
10 displacement.

11 **[1.52] Section 84**

12 *renumber subsections when Act next republished under Legislation*
13 *Act 2001*

14 **[1.53] Section 84A (4)**

15 *substitute*

16 (4) This section is a determinative provision.

17 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
18 displacement.

19 **[1.54] New section 86 (3A)**

20 *insert*

21 (3A) This section is a determinative provision.

22 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
23 displacement.

24 **[1.55] Section 86**

25 *renumber subsections when Act next republished under Legislation*
26 *Act 2001*

1 **[1.56] New section 87 (4)**

2 *insert*

3 (4) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.57] New section 88 (6)**

7 *insert*

8 (6) This section is a determinative provision.

9 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
10 displacement.

11 **[1.58] New section 89 (7A)**

12 *insert*

13 (7A) This section is a determinative provision.

14 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
15 displacement.

16 **[1.59] Section 89 (8), definition of *appropriation Act***

17 *substitute*

18 *appropriation Act*—see the *Financial Management Act 1996*,
19 dictionary.

20 **[1.60] Section 89, example 1, last dot point**

21 *substitute*

- 22 • a provision requiring an amended Act (the *XYZ Act 1990*), or a provision of
23 the *XYZ Act 1990*, to be renumbered in the next republication of the Act
24 under this Act.

25 **[1.61] Section 89**

26 *renumber subsections when Act next republished under Legislation*
27 *Act 2001*

1 **[1.62] Section 91 (9) (e)**

2 *omit*

3 ACT

4 **[1.63] New section 91 (9A)**

5 *insert*

6 (9A) This section is a determinative provision.

7 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
8 displacement.

9 **[1.64] Section 91 (9), examples 4 and 5**

10 *substitute*

11 4 If a section numbered '7A' is to be inserted, by an amending section
12 headed 'division 2.2, new section 7A', into an amended law with an
13 existing sequence 'section 7 [in division 2.2]—division 2.3
14 [heading]—section 8', inserted section 7A is inserted between section 7
15 and the heading to division 2.3 (that is, at the end of division 2.2).

16 5 If a section numbered '7A' is to be inserted, by an amending section
17 headed 'division 2.3, new section 7A', into an amended law with an
18 existing sequence 'section 7 [in division 2.2]—division 2.3
19 [heading]—section 8', inserted section 7A is inserted between the heading
20 to division 2.3 and section 8 (that is, at the beginning of division 2.3).

21 **[1.65] Section 91**

22 *renumber subsections when Act next republished under Legislation*
23 *Act 2001*

24 **[1.66] Section 92**

25 *omit*

26 If

27 *substitute*

28 (1) If

[1.67] Section 92

omit

unless the law otherwise expressly provides

[1.68] Section 92, new example

insert

Example

The *XYZ Amendment Act 2002* is expressed to omit the word ‘authorised’ from the *ABC Act 1998*, section 20. The word ‘authorised’ is used once in the heading to section 20, 3 times in subsection (1) of section 20 and twice in subsection (3) of section 20. The amendment omits each of those references to the word ‘authorised’.

[1.69] New section 92 (2)

insert

(2) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

[1.70] New section 93 (11)

insert

(11) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

[1.71] New section 94 (2A)

insert

(2A) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

1 **[1.72] Section 94**

2 *renumber subsections when Act next republished under Legislation*
3 *Act 2001*

4 **[1.73] Section 95**

5 *omit*

6 If

7 *substitute*

8 (1) If

9 **[1.74] New section 95 (2)**

10 *insert*

11 (2) This section is a determinative provision.

12 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
13 displacement.

14 **[1.75] New section 96 (5)**

15 *insert*

16 (5) This section is a determinative provision.

17 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
18 displacement.

19 **[1.76] Section 98 (1), example**

20 *substitute*

21 **Example**

22 A former NSW Act may be referred to by using the name of the NSW Act to
23 which it corresponds eg '*Truck Act 1900*'. In other words, it is not necessary to
24 add words indicating that it is a former NSW Act.

25 **[1.77] Section 102 (3)**

26 *omit*

1 **[1.78] Section 102 (4)**

2 *renumber as section 102 (3)*

3 **[1.79] Section 105 (1)**

4 *omit*

5 (1) In

6 *substitute*

7 In

8 **[1.80] Section 105 (2)**

9 *omit*

10 **[1.81] New section 120 (5)**

11 *insert*

12 (5) This section is a determinative provision.

13 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
14 displacement.

15 **[1.82] Section 122 (1)**

16 *omit*

17 , except so far as the contrary intention appears

18 **[1.83] New section 126 (8)**

19 *insert*

20 (8) This section is a determinative provision.

21 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
22 displacement.

1 **[1.84] New section 127 (7)**

2 *insert*

3 (7) This section is a determinative provision.

4 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
5 displacement.

6 **[1.85] Section 132 (4)**

7 *substitute*

8 (4) This section is a determinative provision.

9 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
10 displacement.

11 **[1.86] Section 133 (2)**

12 *substitute*

13 (2) This section is a determinative provision.

14 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
15 displacement.

16 **[1.87] New section 134 (8)**

17 *insert*

18 (8) This section is a determinative provision.

19 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
20 displacement.

21 **[1.88] New section 135 (7)**

22 *insert*

23 (7) This section is a determinative provision.

24 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
25 displacement.

26 **[1.89] Section 136**

27 *omit*

1 **[1.90] Chapter 15, note to chapter heading**

2 *omit*

3 **[1.91] Section 145**

4 *omit*

5 , except so far as the contrary intention appears

6 **[1.92] Section 146 (3), (4) and (5)**

7 *substitute*

8 (3) This section is a determinative provision so far as it applies to an
9 applicable law or an applicable provision.

10 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
11 displacement.

12 **[1.93] Section 146 (6)**

13 *renumber as section 146 (4)*

14 **[1.94] New section 147 (8)**

15 *insert*

16 (8) This section is a determinative provision.

17 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
18 displacement.

19 **[1.95] Section 148**

20 *omit*

21 Except so far as the contrary intention appears, words

22 *substitute*

23 Words

1 **[1.96] Section 149**

2 *omit*

3 , except so far as the contrary intention appears

4 **[1.97] Section 150**

5 *omit*

6 , except so far as the contrary intention appears

7 **[1.98] Section 155**

8 *omit*

9 A definition

10 *substitute*

11 (1) A definition

12 **[1.99] New section 155 (2)**

13 *insert*

14 (2) This section is a determinative provision.

15 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
16 displacement.

17 **[1.100] Section 157**

18 *substitute*

19 **157 Defined terms—other parts of speech and grammatical**
20 **forms (IA s 11E)**

21 If an Act or statutory instrument defines a word or expression, other
22 parts of speech and grammatical forms of the word or expression
23 have corresponding meanings.

24 **Example**

25 The *Publication (Grants) Act 2001* contains a definition of **publish** and also
26 contains other forms of the same word ('published', 'publisher', 'publishes',
27 'publishing' and 'publication'). Because of this section, all forms of the word

1 will have the same meaning except so far as the Act otherwise expressly provides
2 or a contrary intention appears (see s 6 (2)).

3 **[1.101] Section 160 (1)**

4 *omit*

5 , except so far as the contrary intention appears

6 **[1.102] New section 160 (3)**

7 *insert*

8 (3) Subsection (2) does not limit the operation of section 6.

9 *Note* Section 6 deals with the displacement of a provision of this Act.

10 **[1.103] Section 161 (1)**

11 *omit*

12 , except so far as the contrary intention appears

13 **[1.104] Section 168**

14 *omit*

15 , except so far as the contrary intention appears

16 **[1.105] Section 176 (3)**

17 *substitute*

18 (3) The jurisdiction so vested is not limited by any limits to which any
19 other jurisdiction of the court or tribunal may be subject.

20 *Note* See also s 45 which relates to the making of rules carrying out or giving
21 effect to the court's jurisdiction.

22 **[1.106] Section 177**

23 *substitute*

24 If an amount is owing under a law to a person (the *creditor*) by
25 another person (the *debtor*), the creditor may recover the amount as

1 a debt owing by the debtor to the creditor in a court of competent
2 jurisdiction.

3 **[1.107] Section 178 (1)**

4 *omit*

5 (1) A court

6 *substitute*

7 A court

8 **[1.108] Section 178 (2)**

9 *omit*

10 **[1.109] Section 179 (3)**

11 *substitute*

12 (3) This section is a determinative provision.

13 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
14 displacement.

15 **[1.110] Section 180 (3)**

16 *omit*

17 **[1.111] Section 185**

18 *renumber as section 182*

19 **[1.112] Section 186**

20 *omit*

21 **[1.113] Sections 187 to 191**

22 *renumber as sections 183 to 187*

1 **[1.114] Section 197 (1)**

2 *omit*

3 (1) If

4 *substitute*

5 If

6 **[1.115] Section 197 (2)**

7 *omit*

8 **[1.116] Section 199 (3), new example**

9 *insert*

10 **Example**

11 The ACT Conference Organisers Registration Board is a statutory body consisting
12 of 5 members. At a meeting of the board it is agreed to exempt a conference
13 organiser from registration on certain conditions. On the day after the meeting, 1
14 of the members of the board (X) resigns and another person (Y) is appointed to
15 the board in X's place. At the next meeting of the board, the board considers
16 additional information submitted by the conference organiser and agrees to amend
17 the conditions of exemption. Because of subsection (3), the board's ability to use
18 its power of exemption is not affected by a change in the membership of the
19 board.

20 **[1.117] New section 199 (4A)**

21 *insert*

22 (4A) Subsections (3) and (4) do not affect any quorum requirement
23 applying to the body.

24 **Example**

25 The Act establishing the board mentioned in the example to subsection (3)
26 provides that the quorum for a meeting of the board is the chairperson or deputy
27 chairperson and 2 other members. If the quorum requirement was complied with
28 at each meeting mentioned in the example, the result mentioned in the example
29 would be the same whether or not X attended the first meeting and whether or not
30 Y attended the second meeting.

1 **[1.118] Section 199**
2 *renumber subsections when Act next republished under Legislation*
3 *Act 2001*

4 **[1.119] Division 18.3.1, new note**
5 *insert*
6 *Note for div 18.3.1*
7 Certain statutory appointments made by a Minister require consultation with a
8 Legislative Assembly committee and are disallowable (see div 19.3.3
9 (Appointments—Assembly consultation)).

10 **[1.120] Section 205 (1)**
11 *omit*
12 (1) This
13 *substitute*
14 This

15 **[1.121] Section 205 (2)**
16 *omit*

17 **[1.122] Section 215 (1)**
18 *omit*
19 (1) This
20 *substitute*
21 This

22 **[1.123] Section 215 (2)**
23 *omit*

-
- 1 **[1.124] Section 219 (1), new example**
- 2 *insert*
- 3 **Example for par (b)**
- 4 A appoints X to act in a position for 10 months. Two months after X begins to
- 5 act, A ends the appointment.
- 6 **[1.125] Section 221 (2), new example**
- 7 *insert*
- 8 **Example for s (2)**
- 9 A appoints X to act in Y's position for a year while Y is on secondment in another
- 10 agency. Three months after X begins to act, Y is permanently transferred to the
- 11 other agency. One month later, Z is appointed to the position in which X is
- 12 acting. The appointment of Z brings X's acting appointment to an end.
- 13 **[1.126] Section 230 (3)**
- 14 *omit*
- 15 **[1.127] Section 231 (2)**
- 16 *substitute*
- 17 (2) However, if a law authorises or requires an entity to delegate a
- 18 function, the function may not be subdelegated by the delegate.
- 19 *Note* Section 231 (2) envisages a law that would allow the appointer (Y) to
- 20 delegate Y's functions to X with authority for X to further delegate
- 21 those functions (see, for example, *Public Sector Management Act 1994*,
- 22 s 36). However, X's authority to subdelegate those functions would
- 23 not in itself give X the authority to delegate Y's power of delegation.
- 24 X could only exercise this power if the law also gave this authority.
- 25 Compare s 236 which deals with the subdelegation of a power to
- 26 delegate.
- 27 (3) Subsection (2) is a determinative provision.
- 28 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
- 29 displacement.
-

1 **[1.128] Section 236 (2)**

2 *substitute*

3 (2) A power to delegate may not be delegated by the appointer.

4 *Note* Section 236 (2) envisages a law that would allow the delegate (X) to
5 exercise the power of delegation of the appointer (Y). However, X's
6 authority to exercise Y's power of delegation would not in itself give X
7 the authority to exercise any of the functions to which Y's power of
8 delegation applies. X could only exercise these functions if the law
9 also gave this authority or Y delegated those functions to X. Compare
10 s 231 which deals with the subdelegation of a delegated function.

11 (3) Subsection (2) is a determinative provision.

12 *Note* See s 5 for the meaning of determinative provisions, and s 6 for their
13 displacement.

14 **[1.129] Section 250 (3)**

15 *omit*

16 adduced

17 *substitute*

18 given

19 **[1.130] Section 251 (2) (b)**

20 *omit*

21 provide

22 **[1.131] Section 255 (1), new note**

23 *insert*

24 *Note* See also s 46 (3) which deals with the repeal and replacement of forms
25 and prevents their amendment.

[1.132] Section 255 (9)

substitute

(9) This section is a determinative provision.

Note See s 5 for the meaning of determinative provisions, and s 6 for their displacement.

[1.133] Sections 260 and 261

substitute

300 Delegation by parliamentary counsel

(1) The parliamentary counsel may delegate the parliamentary counsel's functions under this Act to a public servant.

Note For the making of delegations and the exercise of delegated functions, see *Legislation Act 2001*, pt 19.4.

(2) However, the parliamentary counsel may only delegate a function under part 11.3 (Editorial changes) to:

(a) a person performing the duties of deputy parliamentary counsel in the public service; or

(b) a public servant prescribed under the regulations.

301 References to Administration Act 1989 etc

(1) In any Act, statutory instrument or document, a reference to the *Administration Act 1989*, the *Interpretation Act 1967*, the *Legislation (Republication) Act 1996* or the *Subordinate Laws Act 1989* is, in relation to anything dealt with in this Act, a reference to this Act.

(2) In any Act, statutory instrument or document, a reference to a particular provision of the *Administration Act 1989*, the *Interpretation Act 1967*, the *Legislation (Republication) Act 1996* or the *Subordinate Laws Act 1989* is, in relation to anything dealt with in this Act, a reference to the corresponding provision of this Act.

1 **[1.134] Sections 262 and 263**
2 *renumber as sections 302 and 303 when Act next republished under*
3 *Legislation Act 2001*

4 **[1.135] Section 264 heading**
5 *substitute*

6 **264 Application of s 47 (3) to (6)**

7 **[1.136] Section 264 (1)**
8 *omit*
9 a particular time or from time to time, section 47 (2) and (3)
10 *substitute*
11 at a particular time or from time to time, section 47 (3) to (6)

12 **[1.137] Sections 264 to 274**
13 *renumber beginning at section 304 when Act next republished under*
14 *Legislation Act 2001*

15 **[1.138] Section 267 (1)**
16 *omit*
17 or the *Statute Law Amendment Act 2001 (No 2)*, schedule 2
18 *substitute*
19 , the *Statute Law Amendment Act 2001 (No 2)*, schedule 2 or the
20 *Legislation Amendment Act 2002*

21 **[1.139] Section 267 (2) (b)**
22 *omit*
23 part 2.1
24 *substitute*
25 part 2.1; or

[1.140] New section 267 (2) (c)

insert

(c) the provisions of the *Administration Act 1989*, the *Interpretation Act 1967*, and the *Statutory Appointments Act 1994*, in force immediately before the commencement of the *Legislation Amendment Act 2002*.

[1.141] Section 267 (5)

substitute

(5) This section expires 1 year after the commencement of the *Legislation Amendment Act 2002*.

[1.142] Section 268 (2)

substitute

(2) This section expires 1 year after the commencement of the *Legislation Amendment Act 2002*.

[1.143] Dictionary, part 1, new definitions

insert

by-laws, in relation to an Act, means by-laws made or in force under the Act.

environment protection authority means the Environment Protection Authority under the *Environment Protection Act 1997*.

for, in relation to an Act or statutory instrument, includes for the purposes of the Act or statutory instrument.

Note Under s 7 (3) and s 10 (2) a reference to an Act or statutory instrument includes a reference to a provision of an Act or statutory instrument.

1 **[1.144] Dictionary, part 1, definitions of *former NSW Act***
2 **and *former UK Act***

3 *substitute*

4 ***former NSW Act*** means an Act corresponding to a NSW Act
5 mentioned in schedule 1.

6 *Note 1* The *Crimes Act 1900* is taken to have been enacted by the Legislative
7 Assembly because of the *Crimes Legislation (Status and Citation) Act*
8 *1992*. The 1992 Act was repealed by the *Law Reform (Miscellaneous*
9 *Provisions) Act 1999*, but its previous operation was saved (see s 5 (2)).

10 *Note 2* The other former NSW Acts are taken to have been enacted by the
11 Legislative Assembly because of the *Interpretation Act 1967*, s 65.
12 Section 65 has expired, but its previous operation was saved (see
13 s 65 (3)).

14 ***former UK Act*** means an Act corresponding to a UK Act mentioned
15 in schedule 1.

16 *Note* Former UK Acts are also taken to have been enacted by the Legislative
17 Assembly because of the *Interpretation Act 1967*, s 65.

18 **[1.145] Dictionary, part 1, definition of *indictable offence***

19 *substitute*

20 ***indictable offence***—see section 190 (1).

21 **[1.146] Dictionary, part 1, definition of *judge***

22 *omit*

23 , of the Supreme Court,

24 **[1.147] Dictionary, part 1, new definition of *national capital***
25 ***authority***

26 *insert*

27 ***national capital authority*** means the National Capital Authority
28 under the *Australian Capital Territory (Planning and Land*
29 *Management) Act 1988* (Cwlth).

1 **[1.148] Dictionary, part 1, definition of *repeal*, paragraphs**
2 **(d) and (e)**

3 *renumber as paragraphs (e) and (f)*

4 **[1.149] Dictionary, part 1, definition of *repeal*, new**
5 **paragraph (d)**

6 *insert*

7 (d) for a statutory instrument—revoke the instrument (or part of
8 it); and

9 **[1.150] Dictionary, part 1, definition of *rules***

10 *substitute*

11 *rules* means—

12 (a) of a court or tribunal—rules made by the person or body
13 having power to make rules (however described) regulating the
14 practice and procedure of the court or tribunal; and

15 (b) in relation to an Act—rules made or in force under the Act.

16 **[1.151] Dictionary, part 1, definition of *statutory office-***
17 ***holder***

18 *substitute*

19 *statutory office-holder* means a person occupying a position under
20 an Act or statutory instrument (other than a position in the public
21 service).

22 **[1.152] Dictionary, part 1, definition of *summary offence***

23 *substitute*

24 *summary offence*—see section 190 (2).

1 **[1.153] Dictionary, part 1, new definition of *working day***

2 *insert*

3 *working day* means a day that is not a Saturday, Sunday or public
4 holiday.

5 **[1.154] Dictionary, part 2, new definition of *determinative***
6 ***provision***

7 *insert*

8 *determinative provision*—see section 5 (2).

9 **[1.155] Dictionary, part 2, definition of *law*, paragraph (a)**

10 *omit*

11 **[1.156] Dictionary, part 2, definition of *law*, paragraphs (b)**
12 **to (h)**

13 *renumber as paragraphs (a) and (g)*

14 **[1.157] Dictionary, part 2, new definition of**
15 ***non-determinative provision***

16 *insert*

17 *non-determinative provision*—see section 5 (3).

1 **Schedule 2** **Consequential amendments**

2 (see s 29)

3 **Part 2.1** **Associations Incorporation**
4 **Regulations 1991**

5 **[1.1] Schedule 1, rule 1 heading**

6 *substitute*

7 **1 Definitions for model rules**

8 **[1.2] Schedule 1, rule 1 (1)**

9 *omit*

10 (1)

11 **[2.158] Schedule 1, rule 1 (2) and (3)**

12 *substitute*

13 **1A Application of Legislation Act 2001**

14 The *Legislation Act 2001* applies to these rules in the same way as it
15 would if they were an instrument made under the Act.

16 **Part 2.2** **Auditor-General Act 1996**

17 **[2.159] Schedule 1, new clause 7**

18 *insert*

19 **7 Application of Legislation Act, div 19.3.3**

20 The *Legislation Act 2001*, division 19.3.3
21 (Appointments—Assembly consultation) applies to the appointment
22 of a person to be auditor-general, or to act as auditor-general, as if
23 the power to make the appointment were vested in a Minister, and in

1 that application a reference in the division to a Minister is taken to
2 be a reference to the Executive.

3 **Part 2.3 Bail Act 1992**

4 **[2.160] Section 3 (1), definition of *domestic violence*** 5 ***offence, paragraph (c)***

6 *omit*

7 (commencement: the commencement of section 3 of this Act or
8 immediately after the commencement of the *Protection Orders*
9 (*Consequential Amendments*) Act 2001, whichever is the later)

10 **[2.161] Section 3 (1), definition of *domestic violence*** 11 ***offence***

12 *renumber paragraphs when Act next republished under Legislation*
13 *Act 2001*

14 (commencement: the commencement of section 3 of this Act or
15 immediately after the commencement of the *Protection Orders*
16 (*Consequential Amendments*) Act 2001, whichever is the later)

17 **Part 2.4 Building Act 1972**

18 **[2.162] Section 6A (2)**

19 *substitute*

20 (2) Subsection (1) has effect despite the *Legislation Act 2001*,
21 section 121 (Binding effect of Acts).

22 (3) This section expires on 1 July 2004.

1 **[2.163] Section 63B (1), new notes**

2 *insert*

3 *Note 1* A reference to an Act includes a reference to the statutory instruments
4 made or in force under the Act, including regulations (see *Legislation*
5 *Act 2001*, s 104).

6 *Note 2* A reference to an offence against a Territory law includes a reference to
7 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
8 accessories, attempts, incitement and conspiracy) that relates to the law
9 (see *Legislation Act 2001*, s 189).

10 **[2.164] Section 63B (8)**

11 *omit*

12 **Part 2.5 Casino Control Act 1988**

13 **[2.165] Section 3E**

14 *omit*

15 **[2.166] Section 100 (1) (b), new note**

16 *insert*

17 *Note* A reference to an offence against a Territory law includes a reference to
18 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
19 accessories, attempts, incitement and conspiracy) that relates to the law
20 (see *Legislation Act 2001*, s 189).

21 **Part 2.6 Children and Young People**
22 **Act 1999**

23 **[2.167] Section 192 (3) (d), new note**

24 *insert*

25 *Note* The *Legislation Act 2001*, s 171 deals with the application of client legal
26 privilege.

1 **[2.168] Section 192 (7)**

2 *omit*

3 **Part 2.7 Classification (Publications,**
4 **Films and Computer Games)**
5 **(Enforcement) Act 1995**

6 **[2.169] Section 54A, definition of *offence***

7 *omit*

8 (commencement: the commencement of section 3 of this Act or
9 immediately after the commencement of the *Classification*
10 *(Publications, Films and Computer Games) (Enforcement)*
11 *Amendment Act 2001*, schedule 1, amendment 1.12, whichever is the
12 later)

13 **Part 2.8 Clinical Waste Act 1990**

14 **[2.170] Section 2, new definition of *offence against this***
15 ***Act***

16 *insert*

17 *offence against this Act* includes an offence against this Act that
18 there are reasonable grounds for believing has been, or will be,
19 committed.

20 *Note* A reference to an offence against a Territory law includes a reference to
21 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
22 accessories, attempts, incitement and conspiracy) that relates to the law
23 (see *Legislation Act 2001*, s 189).

24 **[2.171] Section 4**

25 *omit*

1 **Part 2.9** **Competition Policy Reform**
2 **Act 1996**

3 **[2.172] Section 7 (3)**

4 *omit*

5 *Interpretation Act 1967*

6 *substitute*

7 *Legislation Act 2001*

8 **Part 2.10** **Consumer Credit**
9 **(Administration) Act 1996**

10 **[2.173] Section 121 (4), new note**

11 *insert*

12 *Note* The *Legislation Act 2001*, s 171 deals with the application of client legal
13 privilege.

14 **[2.174] Section 121 (6)**

15 *omit*

16 **Part 2.11** **Coroners Act 1997**

17 **[2.175] Section 102**

18 *substitute*

19 **102 Annual report of court**

20 (1) The Chief Coroner must give a report relating to the activities of the
21 court during each financial year to the Attorney-General for
22 presentation to the Legislative Assembly.

23 (2) The report must include particulars of—

- 1 (a) reports prepared by coroners into deaths in custody and
2 findings contained in those reports; and
- 3 (b) notices given under section 14 (3); and
- 4 (c) recommendations made under section 57 (3); and
- 5 (d) responses of agencies under section 76, including
6 correspondence about the responses.
- 7 (3) The Chief Coroner must give the report to the Attorney-General as
8 soon as practicable after the end of the financial year and, in any
9 event, within 6 months after the end of the financial year.
- 10 (4) If the Chief Coroner is of the opinion that it will not be reasonably
11 practicable to comply with subsection (3), the Chief Coroner may
12 within that period apply, in writing, to the Attorney-General for an
13 extension of the period.
- 14 (5) The application must include a statement of reasons for the
15 extension.
- 16 (6) The Attorney-General may give the extension (if any) the
17 Attorney-General considers reasonable in the circumstances.
- 18 (7) If the Attorney-General gives an extension, the Attorney-General
19 must present to the Legislative Assembly, within 3 sitting days after
20 the day the extension is given—
- 21 (a) a copy of the application given to the Attorney-General under
22 subsection (4); and
- 23 (b) a statement by the Attorney-General stating the extension
24 given and the Attorney-General's reasons for giving the
25 extension.
- 26 (8) The Attorney-General must present a copy of a report under this
27 section to the Legislative Assembly within 15 sitting days after the
28 day the Attorney-General receives the report.
- 29 (9) If the Chief Magistrate fails to give a report to the Attorney-General
30 in accordance with this section, the Chief Magistrate must give the

- 1 Attorney-General a written statement explaining why the report was
2 not given to the Attorney-General.
- 3 (10) The statement must be given to the Attorney-General within 14 days
4 after the end of the period within which the report was required to
5 be given to the Attorney-General.
- 6 (11) The Attorney-General must present a copy of the statement to the
7 Legislative Assembly within 3 sitting days after the day the
8 Attorney-General receives the statement.

9 **Part 2.12 Crimes Act 1900**

10 **[2.176] Part 10, new note**

11 *after part heading, insert*

12 *Note for pt 10*

13 The *Legislation Act 2001*, s 171 deals with the application of client legal
14 privilege.

15 **[2.177] Section 185, definition of *summary offence***

16 *omit*

17 **[2.178] Section 246**

18 *omit*

19 **[2.179] Section 336**

20 *substitute*

21 **336 How Magistrates Court may be informed**

22 For this division, the Magistrates Court may inform itself as it
23 considers appropriate.

24 *Note* The *Legislation Act 2001*, s 170 and s 171 deal with the application of
25 the privilege against selfincrimination and client legal privilege.

1 **[2.180] Part 22, new sections 434A and 434B**

2 *insert*

3 **434A Application of certain sections of Commonwealth Crimes**
4 **Act to Territory laws**

5 The provisions of the *Crimes Act 1914* (Cwlth), sections 13, 15, 17,
6 19A, 21B and 21C, so far as they are applicable, apply in relation to
7 all Territory laws as if a Territory law were a law of the
8 Commonwealth.

9 **434B Joinder of charges**

10 (1) Charges against the same person for any number of offences against
11 the same provision of a Territory law may be joined in the same
12 information or summons if the charges are founded on the same
13 facts or form, or are part of, a series of offences of the same or a
14 similar character.

15 (2) If a person is convicted of 2 or more offences mentioned in
16 subsection (1), and the offences relate to doing or failing to do the
17 same act, the court may impose 1 penalty in relation to both or all
18 the offences, but the penalty must not exceed the total of the
19 maximum penalties that could be imposed if a separate penalty were
20 imposed in relation to each offence.

21 **[2.181] New part 23**

22 *insert*

23 **Part 23 Transitional**

24 **445 Operation and meaning of s 434A**

25 (1) Section 434A (Application of certain sections of Commonwealth
26 Crimes Act to Territory laws) has the same meaning and operation
27 as if its provisions—

1 (a) had formed part of the *Interpretation Act 1967*, section 33G;
2 and

3 (b) had been relocated from that Act to this Act immediately
4 before the commencement of this section.

5 (2) This section expires 6 months after it commences.

6 *Note* Under the *Legislation Act 2001*, s 96 the relocation of a provision does
7 not affect its operation or meaning.

8 **Part 2.13 Crimes (Forensic Procedures)** 9 **Act 2000**

10 **[2.182] Dictionary, note 2, new dot point**

11 *insert*

- 12 • summary offence

13 **[2.183] Dictionary, definition of *summary offence***

14 *omit*

15 **Part 2.14 Criminal Code 2001**

16 **[2.184] Schedule 1, part 1**

17 *omit*

18 **Part 2.15 Debits Tax Act 1997**

19 **[2.185] Section 5 (1)**

20 *substitute*

21 (1) The *Legislation Act 2001*, section 121 (2) does not apply to this Act.

22 *Note* Section 121 (2) provides that an Act does not bind the Territory to the
23 extent that it requires or otherwise provides for the payment of money
24 that, on payment, would form part of the public money of the Territory.

1 **Part 2.16 Discrimination Act 1991**

2 **[2.186] Section 108E (1)**

3 *omit*

4 (1) A person

5 *substitute*

6 A person

7 **[2.187] Section 108E (1) (d) and (e)**

8 *substitute*

9 (d) any other offence in relation to the falsity of the information,
10 document or answer.

11 *Note* A reference to an offence against a Territory law includes a reference to
12 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
13 accessories, attempts, incitement and conspiracy) that relates to the law
14 (see *Legislation Act 2001*, s 189).

15 **[2.188] Section 108E (2)**

16 *omit*

17 **Part 2.17 Electoral Act 1992**

18 **[2.189] Section 105 (10)**

19 *renumber as section 105 (11)*

20 **[2.190] Section 105 (9)**

21 *substitute*

22 (9) If the time by which a nomination under subsection (3) is to be
23 made falls on a public holiday, the nomination must be made no
24 later than that time on the public holiday.

25 (10) Subsection (9) has effect despite the *Legislation Act 2001*,
26 section 151 (4) (Reckoning of time).

1 **[2.191] Section 108 (4)**

2 *substitute*

3 (4) If the hour mentioned in subsection (3) falls on a public holiday,
4 anything that under this Act is to be done by the hour of nomination
5 must be done by that time on the public holiday.

6 (5) Subsection (4) has effect despite the *Legislation Act 2001*,
7 section 151 (4) (Reckoning of time).

8 **Part 2.18 Electricity Safety Act 1971**

9 **[2.192] Section 112 (3) (b) and (c)**

10 *substitute*

11 (b) any other offence in relation to the falsity of the information or
12 document.

13 *Note 1* A reference to an offence against a Territory law includes a reference to
14 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
15 accessories, attempts, incitement and conspiracy) that relates to the law
16 (see *Legislation Act 2001*, s 189).

17 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
18 privilege.

19 **[2.193] Section 113**

20 *omit*

1 **Part 2.19 Environment Protection Act**
2 **1997**

3 **[2.194] Section 10**

4 *substitute*

5 **10 Criminal liability of government entities**

6 (1) Except as expressly provided by this Act, a government entity is not
7 immune from criminal liability under this Act in relation to an
8 authorised act or omission of the entity.

9 (2) Subsection (1) does not apply in relation to a prosecution for—

10 (a) an offence against any of the following provisions:

- 11 • section 45 (Compliance with an authorisation)
- 12 • section 137 (3) (which is about polluting the
13 environment causing serious environmental harm)
- 14 • section 138 (3) (which is about polluting the
15 environment causing material environmental harm)
- 16 • section 139 (3) (which is about polluting the
17 environment causing environmental harm)
- 18 • section 141 (Causing an environmental nuisance)
- 19 • section 142 (Placing a pollutant where it could cause
20 harm); or

21 (b) a minor environmental offence within the meaning of
22 division 13.1.

23 (3) This section has effect despite the *Legislation Act 2001*,
24 section 121 (4).

25 *Note* Section 121 (4) extends the effect of the immunity that a government
26 has from an Act to government entities.

27 (4) A word or expression defined in the *Legislation Act 2001*,
28 section 121 has the same meaning in this section.

1 **Part 2.20** **Fair Trading (Consumer**
2 **Affairs) Act 1973**

3 **[2.195] Section 12I (3) (b) and (c)**

4 *substitute*

5 (b) any other offence in relation to the falsity or misleading nature
6 of the information or document.

7 *Note 1* A reference to an offence against a Territory law includes a reference to
8 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
9 accessories, attempts, incitement and conspiracy) that relates to the law
10 (see *Legislation Act 2001*, s 189).

11 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
12 privilege.

13 (commencement: the commencement of section 3 of this Act or
14 immediately after the commencement of the *Fair Trading*
15 *Legislation Amendment Act 2001*, section 17, whichever is the later)

16 **[2.196] Section 12J**

17 *omit*

18 (commencement: the commencement of section 3 of this Act or
19 immediately after the commencement of the *Fair Trading*
20 *Legislation Amendment Act 2001*, section 17, whichever is the later)

21 **Part 2.21** **First Home Owner Grant Act**
22 **2000**

23 **[2.197] Section 43 (2), new note**

24 *insert*

25 *Note* The *Legislation Act 2001*, s 171 deals with the application of client legal
26 privilege.

27 **[2.198] Section 44**

28 *omit*

1 **Part 2.22 Fisheries Act 2000**

2 **[2.199] Part 7, new note**

3 *after part heading, insert*

4 *Note for pt 7*

5 The *Legislation Act 2001*, s 170 and s 171 deal with the application of the
6 privilege against selfincrimination and client legal privilege.

7 **[2.200] Section 73**

8 *omit*

9 **Part 2.23 Forfeiture and Validation of**
10 **Leases Act 1905**

11 **[2.201] Section 5A**

12 *substitute*

13 **5A Pt 3 does not bind Territory**

14 (1) This part does not bind the Territory.

15 (2) This section has effect despite the *Legislation Act 2001*, section 121
16 (Binding effect of Acts).

17 **Part 2.24 Gas Safety Act 2000**

18 **[2.202] Section 58 (3) (b) and (c)**

19 *substitute*

20 (b) any other offence relating to the falsity of the information or
21 document.

22 *Note 1* A reference to an offence against a Territory law includes a reference to
23 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
24 accessories, attempts, incitement and conspiracy) that relates to the law
25 (see *Legislation Act 2001*, s 189).

26 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
27 privilege.

1 **[2.203] Section 59**

2 *omit*

3 **Part 2.25 Guardianship and**
4 **Management of Property Act**
5 **1991**

6 **[2.204] Section 50 (2) (d) and (e)**

7 *substitute*

8 (d) any other offence in relation to the falsity of the answer,
9 document or information.

10 *Note* A reference to an offence against a Territory law includes a reference to
11 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
12 accessories, attempts, incitement and conspiracy) that relates to the law
13 (see *Legislation Act 2001*, s 189).

14 **Part 2.26 Health Records (Privacy and**
15 **Access) Act 1997**

16 **[2.205] Part 6, new note**

17 *after part heading, insert*

18 *Note for pt 6*

19 The *Legislation Act 2001*, s 170 and s 171 deal with the application of the
20 privilege against selfincrimination and client legal privilege.

21 **[2.206] Section 28**

22 *omit*

1 **Part 2.27 Imperial Acts (Repeal) Act**
2 **1988**

3 **[2.207] Title**

4 *substitute*

5 An Act about the interpretation of former UK Acts

6 **[2.208] Section 1**

7 *substitute*

8 **1 Name of Act**

9 This Act is the *Former UK Acts (Interpretation) Act 1988*.

10 **[2.209] Sections 2 to 8**

11 *substitute*

12 **2 Purpose**

13 The purpose of this Act is to assist in the interpretation of former
14 UK Acts.

15 *Note* The former UK Acts are listed in the *Legislation Act 2001*, sch 1.

16 **3 Application**

- 17 (1) Schedule 1 applies to all former UK Acts according to its terms.
18 (2) However, if a year is set out in brackets at the end of a provision of
19 schedule 1, the provision applies only to former UK Acts passed
20 after the year.
21 (3) Also, if schedule 1 makes some other provision, the schedule
22 applies in accordance with that provision.
23 (4) A year set out as mentioned in subsection (2) does not form part of
24 schedule 1.

1 **4 Meaning of certain references**

2 In this Act, a reference to a former UK Act passed at a particular
3 time is a reference to the former UK Act that immediately before it
4 became a former UK Act was a UK Act passed at that time.

5 **5 Relationship with Legislation Act 2001**

6 (1) If a provision of schedule 1 is inconsistent with a provision of the
7 *Legislation Act 2001*, the provision of the schedule prevails to the
8 extent of the inconsistency.

9 (2) Without limiting subsection (1), if a provision of schedule 1 dealing
10 with a matter does not apply to all former UK Acts and a provision
11 of the *Legislation Act 2001* also deals with the matter (whether or
12 not in the same way), then, for that subsection, the provision of the
13 schedule is taken to be intended to deal exclusively with the matter.

14 **[2.210] New schedule 1**

15 *insert*

16 **Schedule 1 Rules for interpreting former**
17 **UK Acts**

18 (see s 3)

19 **Part 1.1 Interpretation**

20 **1 Definitions for pt 1.1**

21 In a former UK Act:

22 ***Bank of England*** means, as the context requires, the Governor and
23 Company of the Bank of England or the bank of the Governor and
24 Company of the Bank of England.

1 **British Islands** means—

2 (a) in a former UK Act passed after the year 1889 and before the
3 establishment of the Irish Free State—the United Kingdom, the
4 Channel Islands and the Isle of Man; and

5 (b) in a former UK Act passed after the establishment of the Irish
6 Free State—the United Kingdom, the Channel Islands, the Isle
7 of Man and the Republic of Ireland.

8 **British possession** means any part of the dominions of the Crown
9 outside the United Kingdom. (1889)

10 **British subject** means—

11 (a) an Australian citizen; or

12 (b) any other person who because of his or her citizenship of
13 another country would, if the *Australian Citizenship Act 1948*
14 (Cwlth), part 2 had continued in force after 30 April 1987,
15 have been a person who has the status of a British subject
16 under that part.

17 **colonial legislature**, of a British possession, means the authority,
18 other than the United Kingdom Parliament or the Crown in Council,
19 competent to make laws for the possession. (1889)

20 **colony** means any part of the dominions of the Crown outside the
21 British Islands and, in a former UK Act passed in or after 1889 (the
22 *first Act*), includes any part of those dominions that has, after the
23 passing of the first Act, ceased, under a provision of a later UK Act,
24 to be a colony, but only in the application of the first Act before the
25 commencement of the provision of the later Act, but does not
26 include—

27 (a) countries having fully responsible status within the
28 Commonwealth of Nations; and

29 (b) associated states. (1889)

30 **Commonwealth citizen** means a person other than a British subject
31 who would, if the *Australian Citizenship Act 1948* (Cwlth), part 2

1 had continued in force after 30 April 1987, have been a person who
2 has the status of a British subject under that part.

3 ***Comptroller and Auditor-General*** means the Comptroller-General
4 of the receipt and issue of the Crown's Exchequer and
5 Auditor-General of Public Accounts appointed under the *Imperial*
6 *Exchequer and Audit Departments Act 1866* (UK).

7 ***consular officer*** has the same meaning as in the Vienna Convention,
8 article 1 (which is set out in the *Consular Privileges and Immunities*
9 *Act 1972* (Cwlth), schedule).

10 ***Governor-General***, of a British possession, includes any person
11 who for the time being has the powers of the Governor-General of
12 the possession. (1889)

13 ***Governor***, of a British possession, includes the officer for the time
14 being administering the government of the possession. (1889)

15 ***legislature***—see ***colonial legislature***. (1889)

16 ***Lord Chancellor*** means the Lord High Chancellor of Great Britain.

17 ***person*** includes a body. (1889)

18 ***Privy Council*** means the Lords and others of the Crown's Most
19 Honourable Privy Council.

20 ***Secretary of State*** means a Principal Secretary of State of the
21 Crown.

22 ***statutory declaration*** includes a declaration made under a law of a
23 State, Territory or foreign country that authorises a declaration to be
24 made otherwise than in the course of a legal proceeding.

25 **2 References to courts**

26 In a former UK Act, a reference to any court (however described)
27 other than a court of summary jurisdiction is a reference to the
28 Supreme Court.

29 **3 Dominions under central and local legislature**

1 For clause 1, definitions of *British possession* and *colony*, if any
2 part of the dominions of the Crown outside the United Kingdom are
3 under both a central and local legislature, all parts under the central
4 legislature are taken to be a single British possession or colony, as
5 the case requires. (1889)

6 **4 Gender and number**

7 (1) In a former UK Act—

8 (a) words importing the masculine gender include the feminine;
9 and

10 (b) words importing the feminine gender include the masculine;
11 and

12 (c) words in the singular include the plural and words in the plural
13 include the singular.

14 (2) This clause applies—

15 (a) to former UK Acts passed before 1851 only in relation to
16 offences punishable on indictment or summary conviction; and

17 (b) to former UK Acts passed after 1850.

18 **5 References to service by post**

19 If a former UK Act authorises or requires a document to be served
20 by post (whether the expression ‘serve’, ‘give’ or ‘send’ or any
21 other expression is used), the service is taken to be made by
22 properly addressing, prepaying and posting a letter containing the
23 document. (1889)

24 **Part 1.2 Miscellaneous**

25 **6 Citation of other UK Acts**

- 1 If a former UK Act cites another UK Act by year, statute, session or
2 chapter, or a provision of another UK Act by number or letter, the
3 reference is a reference—
- 4 (a) for Acts included in any revised edition of the UK statutes
5 printed by authority—to that edition; and
- 6 (b) for Acts not so included but included in the edition prepared
7 under the direction of the Record Commission—to that edition;
8 and
- 9 (c) in any other case—to the Acts printed by the Printer to the
10 Crown, or under the superintendence or authority of the
11 Crown’s Stationary Office. (1889)

12 **7 References to other enactments**

- 13 (1) If a former UK Act refers to an enactment, the reference is a
14 reference to the enactment as amended, and includes a reference to
15 that enactment as extended or applied under any other enactment,
16 including any other provision of that Act. (1889)
- 17 (2) However, if a former UK Act refers to another UK Act, the
18 reference is a reference to the other Act as for the time being
19 amended and in force in the Territory.

20 **Part 2.28 Independent Competition and**
21 **Regulatory Commission Act**
22 **1997**

23 **[2.211] Section 24M (3)**

24 *substitute*

- 25 (3) The *Legislation Act 2001*, division 19.3.3
26 (Appointments—Assembly consultation) does not apply in relation
27 to an appointment to an industry panel.

1 **[2.212] Section 41 (3), penalty**

2 *omit*

3 Maximum penalty:

4 *substitute*

5 Maximum penalty (subsection (3)):

6 **[2.213] Section 41 (3), new note**

7 *insert*

8 *Note* The *Legislation Act 2001*, s 170 and s 171 deal with the application of
9 the privilege against selfincrimination and client legal privilege.

10 **[2.214] Section 41 (4)**

11 *omit*

12 **[2.215] Section 50 (1), new note**

13 *insert*

14 *Note* The *Legislation Act 2001*, s 170 and 171 deal with the application of the
15 privilege against selfincrimination and client legal privilege.

16 **[2.216] Section 50 (2)**

17 *omit*

18 **[2.217] Section 50**

19 *renumber subsections when Act next republished under Legislation*
20 *Act 2001.*

21 **Part 2.29 Lakes Act 1976**

22 **[2.218] Section 4B**

23 *substitute*

24 **4B Application of Act to Territory**

- 1 (1) The following provisions do not bind the Territory:
2 • section 16 (Prohibitions relating to boats etc)
3 • section 17 (Prohibitions relating to swimming etc)
4 • section 18 (Interference with signs)
5 • section 19 (2) and (3) (Approved buoys, wharves and jetties)
6 • section 20 (2) (Restrictions on mooring)
7 • section 24 (Anchoring of boats)
8 • section 25 (3) (Mooring of boats)
9 • section 29 (2) (Restriction on use of hovercraft)
10 • section 32 (Camping etc).
- 11 (2) This section has effect despite the *Legislation Act 2001*, section 121
12 (Binding effect of Acts).

13 **Part 2.30 Landlord and Tenant Act 1899**

14 **[2.219] Section 2**

15 *substitute*

16 **2 Act does not bind Territory**

- 17 (1) This Act does not bind the Territory.
18 (2) This section has effect despite the *Legislation Act 2001*, section 121
19 (Binding effect of Acts).

20 **Part 2.31 Land (Planning and** 21 **Environment) Act 1991**

22 **[2.220] Section 274A (3)**

23 *substitute*

- 24 (3) The *Legislation Act 2001*, division 19.3.3
25 (Appointments—Assembly consultation) applies to the appointment
26 of a public servant as commissioner.

- 1 (4) Subsection (3) has effect despite the *Legislation Act 2001*,
2 section 227 (2) (a) (Application of div 19.3.3).

3 Part 2.32 Limitation Act 1985

4 [2.221] Section 4 (b)

- 5 *omit*
6 the Crown
7 *substitute*
8 a government

9 [2.222] Section 7

- 10 *substitute*

11 7 Application of Act to governments

- 12 (1) For this Act, an action by a government entity is an action by the
13 government.
14 (2) This Act does not apply to an action by the Territory—
15 (a) for the recovery of a penalty, tax or duty or of interest on a
16 penalty, tax or duty; or
17 (b) in relation to the forfeiture of a ship.
18 (3) This Act does not affect the prerogative right of the Territory to
19 mineral rights.
20 (4) This section has effect despite the *Legislation Act 2001*, section 121
21 (Binding effect of Acts).
22 (5) In this section:
23 *government entity*—see the *Legislation Act 2001*, section 121 (6).

24 [2.223] Section 8 (1), definition of Crown

- 25 *omit*
-

1 **[2.224] Section 8 (1), new definition of *government***

2 *insert*

3 *government*—see the *Legislation Act 2001*, section 121 (Binding
4 effect of Acts).

5 **Part 2.33 Liquor Act 1975**

6 **[2.225] Dictionary, definition of *offence against this Act***

7 *omit*

8 **Part 2.34 Low-Alcohol Liquor Subsidies**
9 **Act 2000**

10 **[2.226] Section 39 (2)**

11 *omit everything after*

12 criminal proceedings other than

13 *substitute*

14 proceedings for an offence in relation to the false, misleading or
15 incorrect nature of the information, answer or document.

16 *Note* A reference to an offence against a Territory law includes a reference to
17 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
18 accessories, attempts, incitement and conspiracy) that relates to the law
19 (see *Legislation Act 2001*, s 189).

20 **Part 2.35 Occupational Health and**
21 **Safety Act 1989**

22 **[2.227] Section 5 (4)**

23 *omit*

1 **[2.228] Section 5**
2 *renumber subsections when Act next republished under Legislation*
3 *Act 2001.*

4 **[2.229] Section 93 (1), new note**
5 *insert*
6 *Note* A reference to an offence against a Territory law includes a reference to
7 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
8 accessories, attempts, incitement and conspiracy) that relates to the law
9 (see *Legislation Act 2001*, s 189).

10 **Part 2.36 Perpetuities and** 11 **Accumulations Act 1985**

12 **[2.230] Section 4**
13 *substitute*

- 14 **4 Application of Act to Territory**
- 15 (1) The rule against perpetuities and the rule against perpetual trusts
16 bind the Territory.
- 17 (2) However, nothing in the rule against perpetuities, in the rule against
18 perpetual trusts or in this Act affects any settlement made by the
19 Territory.
- 20 (3) Subsection (1) has effect except so far as another Territory law
21 otherwise provides.
- 22 (4) Subsection (2) has effect despite the *Legislation Act 2001*,
23 section 121 (Binding effect of Acts).

24 **Part 2.37 Public Health Act 1997**

25 **[2.231] Section 82 (2), new note**
26 *insert*

1 **[2.235] Section 22 (3), new note**

2 *insert*

3 *Note* The *Legislation Act 2001*, s 170 and s 171 deal with the application of
4 the privilege against selfincrimination and client legal privilege.

5 **[2.236] Section 22 (4)**

6 *omit*

7 **[2.237] Schedule 3, clause 3.20, modification of**
8 ***Occupational Health and Safety Act 1989,***
9 **section 60D (2), new note**

10 *insert*

11 *Note* The *Legislation Act 2001*, s 170 and s 171 deal with the application of
12 the privilege against selfincrimination and client legal privilege.

13 **[2.238] Schedule 3, clause 3.20, modification of**
14 ***Occupational Health and Safety Act 1989,***
15 **section 60D (3)**

16 *omit*

17 **Part 2.40 Race and Sports Bookmaking**
18 **Act 2001**

19 **[2.239] Section 94 (3)**

20 *substitute*

21 (3) Subsection (2) does not apply to a proceeding for any offence in
22 relation to the false or misleading nature of the information or
23 document.

24 *Note 1* A reference to an offence against a Territory law includes a reference to
25 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
26 accessories, attempts, incitement and conspiracy) that relates to the law
27 (see *Legislation Act 2001*, s 189).

28 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
29 privilege.

1 **[2.240] Section 95**

2 *omit*

3 **Part 2.41 Residential Tenancies Act**
4 **1997**

5 **[2.241] Section 112 (6)**

6 *substitute*

7 (6) The *Legislation Act 2001*, division 19.3.3
8 (Appointments—Assembly consultation) applies to a selection by
9 the Minister under subsection (5) as if—

10 (a) a reference to the appointment of a person to a statutory office
11 were a reference to a selection by the Minister; and

12 (b) a reference to an appointment were a reference to a selection;
13 and

14 (c) all other necessary changes were made.

15 **Part 2.42 Roads and Public Places Act**
16 **1937**

17 **[2.242] Section 2A**

18 *substitute*

19 **2A Application of Act to Territory**

20 (1) The following provisions do not bind the Territory:

- 21 • section 6 (Drains for surface water)
22 • section 7 (Damage to or interference with public places and
23 property on them).

24 (2) This section has effect despite the *Legislation Act 2001*, section 121
25 (Binding effect of Acts).

1 **Part 2.43** **Sale of Motor Vehicles Act**
2 **1977**

3 **[2.243] Section 4A**

4 *substitute*

5 **4A Application of Act to motor dealings by Territory**

6 (1) This Act does not apply in relation to dealings in motor vehicles by
7 the Territory.

8 (2) This section has effect despite the *Legislation Act 2001*, section 121
9 (Binding effect of Acts).

10 (commencement: the commencement of section 3 of this Act or
11 immediately after the commencement of the *Justice and Community*
12 *Safety Legislation Amendment Act 2001*, amendments 1.81 and 1.82,
13 whichever is the later)

14 **Part 2.44** **Surveyors Act 2001**

15 **[2.244] Section 7 (2), other than the notes**

16 *substitute*

17 (2) The *Legislation Act 2001*, division 19.3.3
18 (Appointments—Assembly consultation) applies to the appointment
19 of a public servant as commissioner.

20 (3) Subsection (2) has effect despite the *Legislation Act 2001*,
21 section 227 (2) (a) (Application of div 19.3.3).

22 **[2.245] Section 7 (2), notes**

23 *relocate to section 7 (1)*

1 **Part 2.45** **Taxation Administration Act**
2 **1999**

3 **[2.246] Section 5**

4 *substitute*

5 **5 Act binds Territory**

6 (1) This Act applies to the Territory so far as it requires or otherwise
7 provides for the payment of money that, on payment, would form
8 part of the public money of the Territory.

9 (2) This section has effect despite the *Legislation Act 2001*,
10 section 121 (2).

11 *Note* Section 121 (2) provides that an Act does not bind the Territory to the
12 extent that it requires or otherwise provides for the payment of money
13 that, on payment, would form part of the public money of the Territory.

14 **[2.247] Section 39**

15 *omit*

16 part 18.5

17 *substitute*

18 part 19.5 (Service of documents)

19 **Part 2.46** **Tobacco Act 1927**

20 **[2.248] Section 38 (2)**

21 *omit*

22 **[2.249] Section 38 (3), new note**

23 *insert*

24 *Note* The *Legislation Act 2001*, s 170 and s 171 deal with the application of
25 the privilege against selfincrimination and client legal privilege.

1 **[2.250] Section 38**
2 *renumber subsections when Act next republished under Legislation*
3 *Act 2001*

4 **Part 2.47 Tree Protection (Interim**
5 **Scheme) Act 2001**

6 **[2.251] Section 40 (3) (b) and (c)**
7 *substitute*
8 (b) any other offence in relation to the falsity of the information or
9 document.

10 *Note 1* A reference to an offence against a Territory law includes a reference to
11 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
12 accessories, attempts, incitement and conspiracy) that relates to the law
13 (see *Legislation Act 2001*, s 189).

14 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
15 privilege.

16 **[2.252] Section 41**
17 *omit*

18 **Part 2.48 Utilities Act 2000**

19 **[2.253] Section 74 (2) (d) and (e)**
20 *substitute*
21 (d) any other offence in relation to the falsity of the information or
22 document.

23 *Note 1* A reference to an offence against a Territory law includes a reference to
24 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
25 accessories, attempts, incitement and conspiracy) that relates to the law
26 (see *Legislation Act 2001*, s 189).

27 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
28 privilege.

-
- 1 **[2.254] Section 75**
- 2 *omit*
- 3 **[2.255] Section 166 (2) (d) and (e)**
- 4 *substitute*
- 5 (d) any other offence in relation to the falsity of the information,
- 6 document or answer.
- 7 *Note 1* A reference to an offence against a Territory law includes a reference to
- 8 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
- 9 accessories, attempts, incitement and conspiracy) that relates to the law
- 10 (see *Legislation Act 2001*, s 189).
- 11 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
- 12 privilege.
- 13 **[2.256] Section 167**
- 14 *omit*
- 15 **[2.257] Section 201 (2) (d) and (e)**
- 16 *substitute*
- 17 (d) any other offence in relation to the falsity of the information,
- 18 document or answer.
- 19 *Note 1* A reference to an offence against a Territory law includes a reference to
- 20 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
- 21 accessories, attempts, incitement and conspiracy) that relates to the law
- 22 (see *Legislation Act 2001*, s 189).
- 23 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
- 24 privilege.
- 25 **[2.258] Section 202**
- 26 *omit*
-

1 **[2.259] Section 226 (b)**

2 *substitute*

3 (b) proceeding for an offence against this Act.

4 *Note* A reference to an offence against a Territory law includes a reference to
5 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
6 accessories, attempts, incitement and conspiracy) that relates to the law
7 (see *Legislation Act 2001*, s 189).

8 **[2.260] Section 228 (1)**

9 *substitute*

10 (1) This section does not apply to a proceeding for an offence against
11 section 21 (Requirement for licence).

12 **Part 2.49 Victims of Crime (Financial**
13 **Assistance) Act 1983**

14 **[2.261] Section 2, definition of *serious crime*,**
15 **paragraph (e)**

16 *substitute*

17 (e) an offence against a law of the Commonwealth, a State or
18 another Territory corresponding to a provision of the *Crimes*
19 *Act 1900*, part 9 in relation to an offence mentioned in
20 paragraphs (a) to (d).

21 *Note* A reference to an offence against a Territory law includes a reference to
22 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
23 accessories, attempts, incitement and conspiracy) that relates to the law
24 (see *Legislation Act 2001*, s 189).

1 **[2.262] Section 2, definition of *sexual crime***

2 *substitute*

3 *sexual crime* means any of the following offences:

- 4 (a) an offence against the *Crimes Act 1990*, part 3 (an ***ACT sexual***
5 ***offence***);
- 6 (b) an offence against a law of the Commonwealth, a State or
7 another Territory corresponding to an ACT sexual offence;
- 8 (c) an offence against a law of the Commonwealth, a State or
9 another Territory corresponding to a provision of the *Crimes*
10 *Act 1900*, part 9 in relation to an offence mentioned in
11 paragraph (b).

12 *Note* A reference to an offence against a Territory law includes a reference to
13 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
14 accessories, attempts, incitement and conspiracy) that relates to the law
15 (see *Legislation Act 2001*, s 189).

16 **Part 2.50 Waste Minimisation Act 2001**

17 **[2.263] Section 48 (3) (b) and (c)**

18 *substitute*

- 19 (b) any other offence in relation to the falsity of the information or
20 document.

21 *Note 1* A reference to an offence against a Territory law includes a reference to
22 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
23 accessories, attempts, incitement and conspiracy) that relates to the law
24 (see *Legislation Act 2001*, s 189).

25 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
26 privilege.

27 **[2.264] Section 49**

28 *omit*

1 **Part 2.51 Water and Sewerage Act 2000**

2 **[2.265] Section 39 (3) (b) and (c)**

3 *substitute*

4 (b) any other offence in relation to the falsity of the information or
5 document.

6 *Note 1* A reference to an offence against a Territory law includes a reference to
7 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
8 accessories, attempts, incitement and conspiracy) that relates to the law
9 (see *Legislation Act 2001*, s 189).

10 *Note 2* The *Legislation Act 2001*, s 171 deals with the application of client legal
11 privilege.

12 **[2.266] Section 40**

13 *omit*

14 **Part 2.52 Workers Compensation Act**
15 **1951**

16 **[2.267] Section 23(1)**

17 *omit*

18 defined offence

19 *substitute*

20 offence against this Act

21 (commencement: the commencement of section 3 of this Act or
22 immediately after the commencement of the *Workers Compensation*
23 *Amendment Act 2001*, section 4, whichever is the later)

1 **[2.268] Section 26U (2)**

2 *substitute*

3 (2) This section applies to a prosecution for an offence against this Act.

4 *Note* A reference to an offence against a Territory law includes a reference to
5 an offence against the *Crimes Act 1990*, pt 9 (Aiding and abetting,
6 accessories, attempts, incitement and conspiracy) that relates to the law
7 (see *Legislation Act 2001*, s 189).

8 (commencement: the commencement of section 3 of this Act or
9 immediately after the commencement of the *Workers Compensation*
10 *Amendment Act 2001*, section 4, whichever is the later)

11 **[2.269] Dictionary, definition of *defined offence***

12 *omit*

13 (commencement: the commencement of section 3 of this Act or
14 immediately after the commencement of the *Workers Compensation*
15 *Amendment Act 2001*, section 4, whichever is the later)

Endnote

Republications of amended laws

1 For the latest republication of amended laws, see www.legislation.act.gov.au.